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THE WEINTRAUB GROUP PLC
28580 ORCHARD LAKE ROAD SUITE 140
FARMINGTON HILLS MI 48334

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Naum, et al.	:	
Application No. 12/005,408	:	ON PETITION
Filed: December 27, 2007	:	
Attorney Docket No. XIN-156-A	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 3, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts of Nonprovisional Application, mailed January 28, 2008. This Notice set an extendable period for reply of two (2) months for applicant to submit the statutory basic filing fee, the surcharge for its late filing, and the examination and search fees. No fees having been received, the application became abandoned on March 29, 2008. The Office mailed a Notice of Abandonment on October 7, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the statutory basic filing fee, surcharge, examination and search fees.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

OIPE IAP42
MAR 19 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	LIN
Application No.	:	12/005,426
Filed	:	December 27, 2007
Title	:	SPACING-SENSING APPARATUS FOR USE IN A PRINTING MODULE OF PRINTER
Group Art Unit	:	3653
Examiner	:	Unknown
Attorney Docket	:	BHT/3214-275

MAIL STOP: REFUND
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND OF PETITION FEE

Sir:

A fee of $400 for Petition to Accept Original Filing Date was paid on March 19, 2008. Applicant has submitted proof that all documents were filed with the application on December 27, 2007, and hereby requests a refund of the Petition Fee.

The undersigned requests a **credit of $400 to our Deposit Account No. 501874.**

Respectfully submitted,

Date: March 19, 2008 By: _____

Bruce H. Troxell
Reg. No. 26,592

TROXELL LAW OFFICE PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, Virginia 22041
Telephone: 703 575-2711
Telefax: 703 575-2707

CUSTOMER NUMBER: 40144

Adjustment date: 03/23/2009 CKHLOK
03/20/2008 AWUNDAF1 00000038 12005426
01 FC:1462 -400.00 OP

Kepln. Ref: 03/23/2009 CKHLOK 0009484100
DA#:501874 Name/Number:12005426
FC: 9204 $400.00 CR

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request:	03/15/09	2 Serial/Patent #	12/005426

	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	ifw	01/22/09	$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND	$ 400.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 1 8 5 4 (74)

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

pto error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: ALESIA M. BROWN TITLE: ATTY

SIGNATURE: /ALESIA M. BROWN/ PHONE: 23205

OFFICE: OP

****

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APPROVED: CKhlok DATE: 3/23/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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PHILIP A. DALTON
236 WEST PORTAL AVE., # 15
SAN FRANCISCO CA 94127-1423

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AUG 1 1 2008

In re Application of :
MILLER, Robert F. :
Application No. 12/005,434 : DECISION ON PETITION
Filed: December 26, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **50630.1** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 02, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the declaration of inventor Robert Miller, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

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

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
STARK, Walter :
Application No. 12/005,452 : DECISION ON PETITION
Filed: December 27, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **270701 STARK VARIABLE** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 4, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of inventor Walter Stark's drivers license, passport and declaration, 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 571-272-3700.

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 3644 for action on the merits commensurate with this decision.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

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Alfred M. Walker
225 Old Country Road
Melville, NY 11747-2712

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DEC 0 8 2008

In re Application of	:	
Walker Stark	:	
Application No. 12/005,453	:	DECISION ON PETITION
Filed: December 27, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 270706 Stark Hybrid	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 4, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-5150.

The application is being forwarded to the Technology Center Art Unit 3744 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

Applicant	: Bruce Robert Kline	: DECISION ON REQUEST FOR
Patent Number	: 7638750	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/005,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/005,542	12/26/2007	John F. Corson	10020049-02	5083

7590 11/27/2009

EXAMINER

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

ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
11/27/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 11/25/2009 NFARMER
12/31/2007 TNGUYEN2 00000031 501078 12005542
02 FC:1111 510.00 CR
04 FC:1201 420.00 CR
05 FC:1202 350.00 CR

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 12/005,618 : ON PETITION
Deposited: December 28, 2007 :
Attorney Docket No. 8733.1960.00 :
For: LIQUID CRYSTAL DISPLAY DEVICE

This is a decision on the petition under 37 CFR 1.53(e), filed February 5, 2008, requesting that the above-identified application be accorded a filing date of December 28, 2007.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on December 28, 2007. On February 1, 2008, the Office of Patent Application Processing mailed a Notice informing applicants, *inter alia*, that no filing date had been accorded to the application papers deposited on December 28, 2007 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of December 28, 2007 on the basis that 6 pages of drawings were received in the Patent and Trademark Office (PTO) on December 28, 2007. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 28, 2007 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 pages of drawings.

The return postcard constitutes *prima facie* evidence that 6 pages of drawings were filed on December 28, 2007. MPEP 503. Accordingly, the request is granted. The $400.00 petition fee submitted with the present petition will be refunded to petitioners' deposit account.

The application is being returned to Office of Patent Application Processing for further pre-examination processing, with a filing date of December 28, 2007, using the copy of the 6 pages of drawings re-submitted with the instant petition. Office records will be corrected to show that 6 pages of drawings were present on filing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 0 2 2008

OFFICE OF PETITIONS

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

In re Application of
Kim, et al.
Filed: December 28, 2007
Application No. 12/005,625
Atty. Dkt. No.: 8733. 1937.00

: ON PETITION

This decision is in response to the "PETITION REGARDING DRAWINGS AND GRANT OF FILING DATE," filed May 30, 2008. This matter is being properly treated as a petition to accord the above-identified application a filing date of December 28, 2007 with drawings as part of the disclosure of originally filed application.

The Notice of Incomplete Nonprovisional Application (Notice) mailed April 15, 2008 indicated that the instant application had not been accorded a filing date because the application appeared to have been submitted without drawings, as required per 35 USC 113.

In response, petitioner argues that the application as deposited included eights sheets of drawings and have presented as proof of mailing and proof of receipt of eight sheets of drawings a return postcard date stamped by the Office on December 28, 2007. A copy of the eight drawing sheets has been submitted herewith.

The original eight sheets of drawings have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of December 28, 2007 with eight sheets of drawings as part of the disclosure of invention is **GRANTED**.

Since the original eight sheets of drawings cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. A refund will issue in due course.

This application will be returned to the Office of Patent Application Processing for further processing with a filing date of DECEMBER 28, 2007 with eight sheets of drawings as part of the application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE CA 94086

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of:	:	
Raschke et al.	:	
Application No. 12/005686	:	DECISION DISMISSING
Filing or 371(c) Date: 12/27/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
TELE WIDE MODULE	:	

This is in response to a Petition Under 37 CFR § 1.47(a) – Inventor Cannot be Reached, filed April 7, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 27, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on January 30, 2008, requiring *inter alia*, a properly signed oath or declaration.

Applicant files the present petition in response to the Notice and alleges that inventor Ellis Betensky could not be found or reached after diligent effort. In support of this assertion, Applicant avers that an email was sent to Flextronics with a Declaration, Assignment, and letter of instruction regarding the Declaration and Assignment, and a request that the email and its contents be forwarded to inventor Ellis Betensky. In addition, Applicant provides that the Declaration, Assignment, and letter of instruction were sent to inventor Betensky's last known address via DHL Express. Without an email address for inventor Betensky, Applicant states that the DHL shipment was the last chance to reach inventor Betensky. DHL was unable to deliver the shipment because inventor Betensky no longer resides at that address.

Applicable Law, Rules and MPEP

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

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

Here, Applicant provides that an email was sent to Flextronics, and the Declaration, Assignment and letter of instruction were mailed to the inventors last known address. A search of the regions where it is suspected that inventor Betensky may reside should be undertaken. Copies of the search results should be provided, supported by statements from persons with firsthand knowledge of the search and results. Applicant is also advised that, should Applicant locate the inventor, the MPEP states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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SEP 19 2008

OFFICE OF PETITIONS

In re Application of:	:	
Raschke et al.	:	
Application No. 12/005686	:	DECISION DISMISSING
Filing or 371(c) Date: 12/27/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
TELE WIDE MODULE	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR § 1.47(a), filed August 14, 2008, noting the joinder of the inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on December 27, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on January 30, 2008, requiring *inter alia*, a properly signed oath or declaration.

Applicant filed a petition on April 7, 2008 in response to the Notice and alleged that inventor Ellis Betensky could not be found or reached after diligent effort. In support of this assertion, Applicant averred that an email was sent to Flextronics with a Declaration, Assignment, and letter of instruction regarding the Declaration and Assignment, and a request that the email and its contents be forwarded to inventor Ellis Betensky. In addition, Applicant provided that the Declaration, Assignment, and letter of instruction were sent to inventor Betensky's last known address via DHL Express. Without an email address for inventor Betensky, Applicant stated that the DHL shipment was the last chance to reach inventor Betensky. DHL was unable to deliver the shipment because inventor Betensky no longer resided at that address.

The petition was dismissed in a Decision mailed June 12, 2008. The Decision dismissing the petition informed Applicant that where it is alleged that the nonsigning inventor cannot be found or reached after diligent effort, Applicant must demonstrate diligent effort. At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. Applicant was also informed that a refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor

The present request for reconsideration

Applicant files the present request for reconsideration of petition and an executed oath/declaration executed by the previously nonsigning inventor. A review of the oath/declaration reveals that it has been altered; however, the alterations have not been initialed.

Applicable Law, Rules and MPEP

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

As to item (2), the 37 CFR 1.52(c) provides:

> (1) Any interlineation, erasure, cancellation or other alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. Application papers containing alterations made after the signing of an oath or declaration referring to those application papers must be supported by a supplemental oath or declaration under § 1.67. In either situation, a substitute specification (§ 1.125) is required if the application papers do not comply with paragraphs (a) and (b) of this section.

Analysis/conclusion

As to the inventor, the oath/declaration contains interlineations that have not been dated and initialed by the inventor. A Supplemental oath/declaration is required.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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162 N WOLFE ROAD
SUNNYVALE CA 94086

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In re Application of:	:	
Raschke et al.	:	
Application No. 12/005686	:	DECISION DISMISSING
Filing or 371(c) Date: 12/27/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
TELE WIDE MODULE	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR § 1.47(a), filed November 7, 2008, to file a Supplemental oath/declaration as it relates to the joinder of an inventor.

The Declaration has been entered and made of record.

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

This application is being referred to the Office of Patent Application Processing for continued processing in the normal course of business.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/005,710	12/28/2007	Overton L. Parish IV	46944-P018C1	4902

61060 7590 09/11/2008

WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

EXAMINER	
WALBERG, TERESA J	
ART UNIT	PAPER NUMBER
3744	

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.

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

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

In re Application of:
PARISH, OVERTON L. IV et al
Serial No. 12/005,710
Filed: Dec. 28, 2007
Docket: 46944-P018C1
Title: COOLING APPARATUS HAVING LOW PROFILE EXTRUSION AND METHOD OF MANUFACTURE THEREFOR

9/11/08

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on Aug. 25, 2008 to request a new office action be mailed and re-set the response period. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required.

The petition is **GRANTED.**

The Office contended that the above-identified application became abandoned for failure to timely reply to the Non-final Office action mailed Mar. 25, 2008, which set a period for reply of one month. Having received no reply, the Office considered the application abandoned on Apr. 28, 2008. A Notice of Abandonment has not been mailed.

A review of the application file reveals that the Mar. 25, 2008 Non-final Office action was returned to the Office on Mar. 31, 2008. It is apparent that the Mar. 25, 2008 non-final Office action was not delivered to the correspondence address of record. Therefore, the petition under 37 CFR 1.181 is granted and the holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

In view of the above, the application is being forwarded to the examiner in Art Unit 3744 for re-mailing the non-final Office action and a new period to respond will be re-set.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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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KARL F. MILDE, JR., ESQ.
MILDE & HOFFBERG, LLP
10 BANK STREET, SUITE 460
WHITE PAINS, NY 10606

COPY MAILED

JAN 29 2008

OFFICE OF PETITIONS

In re Application of :
MACKAY, Arthur E. :
Application No. 12/005,754 : DECISION ON PETITION
Filed: December 28, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **MACKAY 201-KFM** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED.**

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

The instant petition does not include evidence such as a statement signed by applicant showing that he or she is 65 years of age or more.

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

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

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

By FAX: (571) 273-8300

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

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

The application will be forwarded to the Technology Center Art Unit 3765 for action in its regular turn.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE, CA 92614-6232

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DEC 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Barry Edward Rothenberg et al	:	
Application No. 12/005,791	:	DECISION ON PETITION
Filed: December 28, 2007	:	TO WITHDRAW
Attorney Docket No. 101193.0007US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 9, 2009.

The request is **APPROVED**.

The request was signed by Robert D. Fish on behalf of the practitioners of record associated with Customer Number 24392.

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

All future correspondence will be directed to inventor Barry Edward Rothenberg 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: Barry Edward Rothenberg
P.O. Box 977
Del Mar, CA 92014-0977

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
12/005,791	12/28/2007	Barry E. Rothenberg	101193.0007US

CONFIRMATION NO. 5512

POWER OF ATTORNEY NOTICE

24392
FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1000
Irvine, CA 92614-6232

Date Mailed: 12/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2009.

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

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/005,791	12/28/2007	Barry E. Rothenberg	101193.0007US

CONFIRMATION NO. 5512

Barry Edward Rothenberg
P.O. Box 977
Del Mar, CA 92014-0977

POA ACCEPTANCE LETTER

OC000000039150153

Date Mailed: 12/14/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2009.

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

/idingle/

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

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

COPY MAILED

OCT 22 2008

In re Application of	:	
Douglas E. Hollies	:	DECISION GRANTING STATUS
Application No. 12/005,815	:	UNDER 37 CFR 1.47(b)
Filed: December 28, 2007	:	
Attorney Docket No. AB-2376 US	:	

This is in response to the petition under 37 CFR 1.47(b), filed August 19, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Douglas E. Hollies, has constructively refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DOUGLAS E. HOLLIES
6311 DALTON DRIVE NW
CALGARY, AB T3A 1E1
CANADA

COPY MAILED

OCT 22 2008

In re Application of	:	
Douglas E. Hollies	:	
Application No. 12/005,815	:	LETTER
Filed: December 28, 2007	:	
Attorney Docket No. AB-2376 US	:	

Dear Mr. Hollies:

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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NOV 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Ammendola et al.	:	DECISION ON PETITION
Application Number: 12/005880	:	TO WITHDRAW HOLDING OF
Filing Date: 12/28/2007	:	ABANDONMENT
Attorney Docket Number: Q009 1011.3	:	

This is a decision on the petition, filed on October 24, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to timely submit a substitute specification in response to the Notice to File Corrected Application Papers mailed on January 30, 2008, which set a two (2) month shortened period for reply. A Notice of Abandonment was mailed on October 7, 2008.

Petitioner asserts that a substitute specification was in fact timely filed. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of, *inter alia*, a Response to Notice to File Corrected Application Papers, Substitute Specification, Marked up Substitute Specification, and copy of Notice to File Corrected Application Papers, dated January 30, 2008. The postcard has an "Office date" stamp of April 3, 2008, and identifies the application by application number, filing date, attorney docket number, first named inventor's last name, and invention title. Additionally, petitioner has submitted a copy of the substitute specification and marked up copy asserted to have been previously timely filed with the present petition.

Petitioner's response to the Notice to File Corrected Papers filed on April 3, 2008, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[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 the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the substitute

specification was received in the Office but was not matched with the application file.

The date-stamp on the post card of April 3, 2008, is after the due date for the response. However, under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The transmittal sheet itemizing the filing of the response to the Notice to File Corrected Application Papers, substitute specification and marked-up copy of substitute specification bears a proper certificate of mailing, dated March 31, 2008,[1] in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. Consequently, there was no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be 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

[1] As March 30, 2008, fell on a Sunday, the reply filed on March 31, 2008, was timely filed. 37 CFR 1.7.

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.
12/005,902	12/28/2007	Dong-Gyu Kim	AB-2546 US	5692

7590 04/13/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
04/13/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2009 NFARMER
01702/2008 FMETEKI1 00000067 502257 12005902
02 FC:1111 510.00 CR
04 FC:1201 420.00 CR
05 FC:1202 50.00 CR

23 JAN 2009

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PYLE & PIONTEK
ATTN: THOMAS R. VIGIL
221 N LASALLE STREET , ROOM 2036
ROOM 2036
CHICAGO, IL 60601

In re Application of ZACCHI	:	
U.S. Application No.: 12/005,908	:	
PCT Application No.: PCT/IT2006/000505	:	
Int. Filing Date: 30 June 2006	:	DECISION
Priority Date Claimed: 01 July 2005	:	
Attorney Docket No.: VLM-40008	:	
For: CONTAINER FOR PACKAGING AND PACKAGING PROCEDURE	:	

This is in response to applicant's "Petition" filed 24 November 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

On 30 June 2006, applicant filed international application PCT/IT2006/000505, which claimed priority of an earlier Italy 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 29 December 2007, applicant filed application papers in the USPTO. The submission was accompanied by, *inter alia*, a Utility Patent Application Transmittal (Form PTO/SB/05).

On 24 November 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the application be treated as a continuation of international application PCT/IT2006/000505. However, the present application did not include a proper reference to international application PCT/IT2006/000505 (i.e. an indication that the present

application is a continuation of international application PCT/IT2006/000505) within the later or four months from the actual filing date of the present application or sixteen months from the international filing date. See 37 CFR 1.78(a)(2)(i)-(ii). [1]

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.

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

[1] Applicant may wish to consider filing a petition under 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority. Such a petition must be accompanied by the requisite surcharge set forth in 37 CFR 1.17(t).

UNITED STATES PATENT AND TRADEMARK OFFICE

20 APR 2010

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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PYLE & PIONTEK
ATTN: THOMAS R. VIGIL
221 N LASALLE STREET , ROOM 2036
ROOM 2036
CHICAGO, IL 60601

In re Application of ZACCHI	:	
U.S. Application No.: 12/005,908	:	
PCT Application No.: PCT/IT2006/000505	:	
Int. Filing Date: 30 June 2006	:	DECISION
Priority Date Claimed: 01 July 2005	:	
Attorney Docket No.: VLM-40008	:	
For: CONTAINER FOR PACKAGING AND PACKAGING PROCEDURE	:	

This is in response to applicant's renewed petition filed 03 March 2009, which is being treated under 37 CFR 1.181.

BACKGROUND

On 30 June 2006, applicant filed international application PCT/IT2006/000505, which claimed priority of an earlier Italy 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 29 December 2007, applicant filed application papers in the USPTO. The submission was accompanied by, *inter alia*, a Utility Patent Application Transmittal (Form PTO/SB/05).

On 24 November 2008, applicant filed a petition under 37 CFR 1.181.

On 23 January 2009, this Office mailed a decision dismissing the 24 November 2008 petition.

On 03 March 2009, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The renewed petition requests that the application be treated as a continuation of international application PCT/IT2006/000505. However, the present application did not include a proper reference to international application PCT/IT2006/000505 (i.e. an indication that the present application is a continuation of international application PCT/IT2006/000505) within the later or four months from the actual filing date of the present application or sixteen months from the international filing date. See 37 CFR 1.78(a)(2)(i)-(ii). Applicant has not filed a proper petition under 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority. Such a petition must be accompanied by the requisite surcharge set forth in 37 CFR 1.17(t).

CONCLUSION

For the reasons above, the renewed 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.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

25 MAY 2010

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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PYLE & PIONTEK
ATTN: THOMAS R. VIGIL
221 N LASALLE STREET , ROOM 2036
ROOM 2036
CHICAGO, IL 60601

In re Application of ZACCHI	:	
U.S. Application No.: 12/005,908	:	
PCT Application No.: PCT/IT2006/000505	:	
Int. Filing Date: 30 June 2006	:	DECISION
Priority Date Claimed: 01 July 2005	:	
Attorney Docket No.: VLM-40008	:	
For: CONTAINER FOR PACKAGING AND PACKAGING PROCEDURE	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 27 April 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (3) above.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and a proper statement regarding the delay in filing the priority claim must be filed.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

2 3 JUN 2010

COMMISSIONER FOR PATENTS
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ATTN: THOMAS R. VIGIL
221 N LASALLE STREET , ROOM 2036
ROOM 2036
CHICAGO, IL 60601

In re Application of ZACCHI	:	
U.S. Application No.: 12/005,908	:	
PCT Application No.: PCT/IT2006/000505	:	
Int. Filing Date: 30 June 2006	:	DECISION
Priority Date Claimed: 01 July 2005	:	
Attorney Docket No.: VLM-40008	:	
For: CONTAINER FOR PACKAGING AND PACKAGING PROCEDURE	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 08 June 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed 27 April 2010.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3744 for appropriate action on the amendment filed 27 April 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed international application.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/005,937	12/27/2007	Jean-Pierre Sommadossi	11874-135-999	5640

20583 7590 05/05/2009

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

EXAMINER	
SHIAO, REI TSANG	

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
05/05/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

Applicant: Sommadossi et al.
Appl. No.: 12/005,937
Filing Date: December 27, 2007
Title: COMPOUNDS AND PHARMACEUTICAL COMPOSITIONS FOR THE TREATMENT OF VIRAL INFECTIONS
Attorney Docket No.: 11874-135-999
Pub. No.: US 2008/0286230 A1
Pub. Date: November 20, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on May 1, 2009, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. 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.** 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.

Kaletus Buchanan

Office of Data Management
United States Patent & Trademark Office

Adjustment date: 05/05/2009 KKING1
05704/2009 INTEFSW 00004576 503013 12005937
01 FC:1504 300.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/005,958	12/28/2007	Tae-Heui Kwon	51876P1308	5321

8791 7590 10/13/2009

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER	
ZWEIZIG, JEFFERY SHAWN	

ART UNIT	PAPER NUMBER
2816	

MAIL DATE	DELIVERY MODE
10/13/2009	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

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

In re Application of KWON, TAE-HEUI
Appl. No.: 12/005,958
Filed: December 28, 2007
For: Internal Voltage Generator

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed September 02, 2009, to expunge Information Disclosure Statement (IDS) filed September 1, 2009, from the above-identified application and refund the fee submitted therefor.

The petition is DISMISSED.

Petitioner requests that the IDS filed September 01, 2009, be expunged from the record because its filing was the result of an administrative error, and that a fee of $180.00 was charged to cover the mistakenly filed IDS.

The petition indicates does not explain what the administrative error was or why the IDS was considered mistakenly filed.

It is assumed that the petition was intended to expunge information unintentionally submitted in an application

Petition to expunge information or copy of papers in an application is governed by 37 CFR 1.59(b) and MPEP 724.05. For the purpose of rendering this decision on the petition and in view of the absence of information provided in support of the petition, it is presumed that petitioner requests expunging the IDS because it was unintentionally submitted in the instant application.

Pursuant to MPEP 724.05(II),

"A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b),

provided that:
(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included..."

The petition lacks items (B), (C) and (D) above. Accordingly, the petition is dismissed.

Regarding the request for refund of the fee of $180.00 for the IDS, 37 CFR 1.26 authorizes the USPTO to refund money paid in excess or in error. Since the IDS fee was not paid in excess or in error within the meaning of 37 CFR 1.26, refund of this fee must be denied.

Any inquiry regarding this decision should be directed to Lincoln Donovan, Supervisory Patent Examiner, at (571) 272-1988.

John W. Cabeca, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Attorney's Docket No. 051876.P1308

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of:

Tae-Heui Kwon

Application No. 12/005,958

Filed: December 28, 2007

For: **INTERNAL VOLTAGE GENERATOR**

Examiner: Jeffery Shawn Zweizig

Art Unit: 2816

Confirmation No.: 5321

PETITION TO DELETE INFORMATION DISCLOSURE STATEMENT (IDS) SUBMISSION AND REQUEST FOR REFUND OF IDS FEE

Office of Patent Application Processing
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This petition is with respect to the filing of an Information Disclosure Statement (IDS) on September 1, 2009.

In this connection, the Applicant notes that the filing of the IDS on September 1, 2009 was the result of an administrative error. As a result of this administrative error, it is believed a fee of $180.00 was charged to Deposit Account 02-2666 to cover the filing of the mistakenly filed IDS.

Accordingly, deletion of the IDS submission of September 1, 2009 and refund of the IDS filing fee associated with this submission is requested.

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

Julie A. Smit
1045 Hinman Avenue
Evanston IL 60202

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Smit, et al. :
Application No. 12/005,993 :
Filed: December 28, 2007 :
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on November 17, 2008, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Omitted Items of Non-Provisional Application mailed January 29, 2008, which set a shortened period for reply of two-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 20, 2008. A Notice of Abandonment was mailed on October 7, 2008.

The instant petition was filed on November 17, 2008, wherein petitioner argues that a response was timely filed.

The petition will not be treated on its merits at this juncture because it is not signed by all of the necessary parties. Further to this point, 37 CFR 1.33(b) provides, in pertinent part that:

> b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) **>A 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.

The petition, as filed on November 17, 2008, is defective because it is only signed by inventor Smit, but there is an additional joint inventors listed on the application. The renewed petition must be signed by

either all the named joint inventors, an attorney of record in the application, or a representative of the assignee that is empowered by 37 CFR 3.73(b).

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
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OFFICE OF PETITIONS

Julie A. Smit
1045 Hinman Avenue
Evanston IL 60202

In re Application of
Smit, et al.
Application No. 12/005,993
Filed: December 28, 2007
Attorney Docket No.

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 filed on March 16, 2009, to withdraw the holding of abandonment in the above-cited application.

The renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Omitted Items of Non-Provisional Application mailed January 29, 2008, which set a shortened period for reply of two-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 20, 2008. A Notice of Abandonment was mailed on October 7, 2008.

A petition under 37 CFR 1.181 was filed on November 17, 2008, wherein petitioner argued that a response was timely filed. The petition was dismissed by a decision mailed March 2, 2009. By the instant renewed petition, petitioner again asserts that a timely response to the Notice of Omitted Items of Non-provisional Application was deposited with the United States Postal Service on February 26, 2008. Petitioner provided a copy of the certificate of mailing dated February 26, 2008, that is alleged to have accompanied the response.

Section 512 of the *Manual of Patent Examining Procedure* provides in pertinent part that:

> A) The certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. Although not specifically required by 37 CFR 1.8, it is preferred that the certificate be signed by the applicant, assignee, or registered practitioner.
>
> (B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.
>
> (C) ***When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable. Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.*** If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be

supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP § 503 relative to the use of postcards as receipts.

(D) In situations wherein the correspondence includes papers for more than one application (e.g., a single envelope containing separate papers responding to Office actions in different applications) or papers for various parts of the Office (e.g., a patent issue fee transmittal form PTOL-85B and an assignment), each paper must have its own certification as a part thereof or attached thereto. Although Part B of Form PTOL-85, Notice of Allowance and Fee(s) Due, may contain a Certificate of Mailing thereon, a separate Certificate of Mailing is required for all papers included with this form, including *>replacement< drawings. Checks submitted with the papers do not require certification.

(E) In situations wherein the correspondence includes several papers directed to the same area of the Office for the same application (for example, a proposed reply under 37 CFR 1.116 and a Notice of Appeal), each paper should have its own certification as a part thereof or attached thereto.

(F) For the purposes of 37 CFR 1.8(a)(1)(i)(A), first class mail is interpreted as including "Express Mail" and "Priority Mail" deposited with the U.S. Postal Service.

Alternatively, the correspondence may be submitted with a cover or transmittal letter which itemizes the papers and on which is placed the certificate under 37 CFR 1.8.

The copy of the certificate of mailing dated February 26, 2008, that is alleged to have accompanied the response to the Notice of Omitted Items of Non-Provisional Application cannot be used to invoke the protections offered by 37 CFR 1.8 because the certificate of mailing is contained on a page that is separate from the response it is alleged to have accompanied and does not identify the papers that are covered by the certificate of mailing. It is not possible to determine to what paper the certificate of mailing is directed. The holding of abandonment cannot be withdrawn on the basis of the certificate of mailing. The petition is dismissed accordingly.

It is also noted that petitioner maintains that pages 12, 13, and 15 of the specification accompanied the original application papers filed December 28, 2007, and provided and a copy of the Office date-stamped postcard as evidence of the same. Applicants are required, however, to file a timely response to the all communications issued by the USPTO even if it is believed that the communication has been issued in error. The fact that petitioner is not able to establish that a timely response to the Notice of Omitted Items of Non-Provisional Application was filed because of the aforementioned deficiency in the certificate of mailing prohibits withdrawal of the holding of abandonment notwithstanding the Office date-stamped postcard acknowledging receipt of twenty four pages of the specification on December 28, 2007.

Petitioner is invited to file a second renewed petition to withdraw the holding of abandonment if petitioner has additional *prima facie* evidence, i.e, an Office date-stamped postcard, that would demonstrate that the response to the Notice of Omitted Items of Non-Provisional Application was timely filed.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Julie A. Smit
1045 Hinman Avenue
Evanston IL 60202

In re Application of
Smit, et al.
Application No. 12/005,993
Filed: December 28, 2007
Attorney Docket No.

ON PETITION

This is a decision on the second renewed petition under 37 CFR 1.181 filed on April 28, 2009, to withdraw the holding of abandonment in the above-cited application.

The second renewed petition is **GRANTED**[1].

The above-identified application became abandoned for failure to reply to the Notice of Omitted Items of Non-Provisional Application mailed January 29, 2008, which set a shortened period for reply of two-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 20, 2008. A Notice of Abandonment was mailed on October 7, 2008.

Petitions under 37 CFR 1.181 were filed on November 17, 2008, and March 16, 2009, wherein petitioner argued that a response was timely filed. The petitions were dismissed by decisions mailed March 2, 2009, and April 10, 2009. By the instant second renewed petition, petitioner again asserts that a timely response to the Notice of Omitted Items of Non-provisional Application was deposited with the United States Postal Service on February 26, 2008. Petitioner provided a copy of the certificate of mailing dated February 26, 2008, that is alleged to have accompanied the response.

The copy of the certificate of mailing dated February 26, 2008, that is alleged to have accompanied the response to the Notice of Omitted Items of Non-Provisional Application would not normally be used to invoke the protections offered by 37 CFR 1.8 because the certificate of mailing is contained on a page that is separate from the response it is alleged to have accompanied and does not identify the papers that are covered by the certificate of mailing. It is noted, however, that petitioner is a *pro se* applicant who is prosecuting the application without the benefit of the procedural knowledge of registered practitioner. In light of this fact, the evidence is convincing that petitioner made a *bona fide* effort to comply with the procedural requirements of 37 CFR 1.8 such that the response to the Notice of Omitted Items of Non-Provisional Application deposited with the United States Postal Service would receive the protections offered by 37 CFR 1.8. Accordingly, the response to the Notice of Omitted Items of Non-Provisional Application mailed February 26, 2008, but apparently lost thereafter, is considered timely. The petition to withdraw the holding of abandonment is granted. Petitioner should consult Section 512 of the *Manual of Patent Examining Procedure* for guidance on implementing the protections of 37 CFR 1.8 and should be careful to properly format the certificate of mailing on future filings.

[1] The decision was made in consultation with the supervisory staff of the Office of Petitions.

The copy of pages 12, 13, and 15 filed November 17, 2008, are noted.

The application file is being directed to the Office of Patent Application Processing with a filing date of December 28, 2007, including pages 12, 13, and 15 of the specification.

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

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

KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Ricky Wayne Purcell	: DECISION ON REQUEST FOR
Patent Number	: 7594724	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/006,026	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YVONNE JETT
#62
19972 STANTON AVE
CASTRO VALLEY CA 94546

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OCT 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Jett	:	
Application No. 12/006,034	:	DECISION
Filed/Deposited: 31 December, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 24 September, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008.

The application went abandoned by operation of law after midnight 20 September, 2008.

Office records reflect that Petitioner filed a reply—untimely—on Tuesday, 23 September, 2008.

The Office mailed the Notice of Abandonment on 18 September, 2009.

On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. Thus, it appears that Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below.

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and

> MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

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

---

[1] *See*: MPEP §711.03(c) (I)(B).

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

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

STATUTES, REGULATIONS

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YVONNE JETT
#62
19972 STANTON AVE
CASTRO VALLEY CA 94546

COPY MAILED

DEC 14 2009

OFFICE OF PETITIONS

In re Application of :
Jett :
Application No. 12/006,034 : DECISION
Filed/Deposited: 31 December, 2007 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 20 November, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008 (or the next business day).

The application went abandoned by operation of law after midnight 20 September, 2008.

Office records reflect that Petitioner filed a reply—untimely—on Tuesday, 23 September, 2008.

The Office mailed the Notice of Abandonment on 18 September, 2009.

On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (Certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. The petition was dismissed on 28 October, 2009.

On 20 November, 2009, Petitioner re-advanced her request to withdraw the holding of abandonment in a one-page paper with a one-page attachment considered *in globo* as a petition pursuant to 37 C.F.R. §1.181. Petitioner asserted that her reply to the 20 June, 2008, non-final Office action—transmitted on a date unstated—was received on 22 September, 2008. As indicated above, the Office record reflects that the reply in question was received in and by the Office on 23 September, 2008. Notably, the reply in question was received without a certificate of mail (37 C.F.R. §1.8), without an Express Mail transmission (37 C.F.R. §1.10), and without a date-stamped receipt card listing ("properly identifies") the papers submitted to and received by the Office (MPEP §503). Thus, Petitioner failed to use even one of those three methods sanctioned by the Office and pursuant to the Rules of Practice (37 C.F.R.). Moreover, as of this writing, Petitioner has failed to provide even a linkage that might tie the paper(s)/reply in question by U.S. Postal Service (USPS) tracking number (set forth above) with a USPS certified mail date-stamped card that Petitioner wishes to be considered. Petitioner states that "Operation of Reason [requires that her petition to withdraw the holding of abandonment] should be granted." Further, she asserts, "I am a *pro se* inventor and I feel that I should have some consideration for that also." Thus, Petitioner would:

- on one hand ignore the Rules of Practice but impose some other unstated "Operation of Reason"; and

- on the other hand provide different sets of compliance rules for different groups of Applicants.

Petitioner complains that the Office makes a "highly legalistic review of facts."

To the contrary, the Office only calls upon all Applicants to operate by the same rules—a basic element of fundamental fairness.

Petitioner states, "It is not my fault and I should not be penalized for something that was not untimely."

The Office has not made and does not make a determination as to "fault." Rather, the Office provides methodologies for Applicants to ensure that they document and independently confirm their dealings with the Office.

The Rules of Practice provide protections and benefits for applicants and practitioners (e.g., (37 C.F.R. §1.8 and §1.10 and MPEP §503), however, those protections and benefits are unavailable when Applicants fail to comply with/follow those rules.

Thus, it appears at this writing that Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below.

Once again, Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge

basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

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

***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Petitioner is cautioned that failure to act promptly in this regard may be considered indicia of delay that is other than unintentional.

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

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[1] *See*: MPEP §711.03(c) (I)(B).

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

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

STATUTES, REGULATIONS

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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

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

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Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YVONNE JETT
#62
19972 STANTON AVE
CASTRO VALLEY CA 94546

COPY MAILED
MAR 08 2010

In re Application of	:	
Jett	:	
Application No. 12/006,034	:	DECISION
Filed/Deposited: 31 December, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 22 December, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

This is the third consideration of Petitioner's attempt to have the holding of abandonment withdrawn.

For the third time Petitioner failed to present the required showing.

The facts of the case clearly evidence that—because Petitioner failed to identify the papers averred to have been submitted on 18 September, 2008, with the U.S. Postal Service (USPS) tracking number and failed to include a certificate of mailing (*see*: 37 C.F.R. §1.8)—it clearly is not possible for Petitioner to make the showing required.

Therefore, Petitioner either can immediately file a petition to revive pursuant to under 37 C.F.R. §1.137(b), or Petitioner can risk her continued refusal to do so be considered as indicia of delay that is not unintentional.

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." *More properly, Petitioner should file a petition to the Commissioner under 37 C.F.R. §1.137(b)* under 37 C.F.R. §1.181 *requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008 (or the next business day).

The application went abandoned by operation of law after midnight 20 September, 2008.

Office records reflect that Petitioner filed a reply—untimely—on Tuesday, 23 September, 2008.

The Office mailed the Notice of Abandonment on 18 September, 2009.

On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (Certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. The petition was dismissed on 28 October, 2009.

On 20 November, 2009, Petitioner re-advanced her request to withdraw the holding of abandonment in a one-page paper with a one-page attachment considered *in globo* as a petition pursuant to 37 C.F.R. §1.181. Petitioner asserted that her reply to the 20 June, 2008, non-final Office action—transmitted on a date unstated—was received on 22 September, 2008. As indicated above, the Office record reflects that the reply in question was received in and by the Office on 23 September, 2008. Notably, the reply in question was received without a certificate of mail (37 C.F.R. §1.8), without an Express Mail transmission (37 C.F.R. §1.10), and without a

date-stamped receipt card listing ("properly identifies") the papers submitted to and received by the Office (MPEP §503). Thus, Petitioner failed to use even one of those three methods sanctioned by the Office and pursuant to the Rules of Practice (37 C.F.R.). Moreover, as of this writing, Petitioner has failed to provide even a linkage that might tie the paper(s)/reply in question by U.S. Postal Service (USPS) tracking number (set forth above) with a USPS certified mail date-stamped card that Petitioner wishes to be considered. Petitioner states that "Operation of Reason [requires that her petition to withdraw the holding of abandonment] should be granted." Further, she asserts, "I am a *pro se* inventor and I feel that I should have some consideration for that also." Thus, Petitioner would: on one hand ignore the Rules of Practice but impose some other unstated "Operation of Reason"; and on the other hand provide different sets of compliance rules for different groups of Applicants. Petitioner complained that the Office makes a "highly legalistic review of facts." In fact, the Office only calls upon all Applicants to operate by the same rules—a basic element of fundamental fairness. Petitioner stated, "It is not my fault and I should not be penalized for something that was not untimely." The Office made no determination as to "fault." Rather, the Office provided methodologies for Applicants to ensure that they document and independently confirm their dealings with the Office. Petitioner failed to satisfy the required showing and the petition was dismissed on 14 December, 2009.

On 24 December, 2009, Petitioner resubmitted her petition in the form of the following: "I am filing a renewed petition to withdraw the holding of abandonment for Application No. 12,006,034 (circled, sic). Here is a copy of proof of the date of mailing of my response that was mailed timely. Here is additional proof of Date mailed from post office. YJ"

Once again, as noted above, there is absolutely no linkage provided by Petitioner as between the papers untimely filed and the USPS documents (a date-stamped stub and USPS payment receipt).

The Rules of Practice provide protections and benefits for applicants and practitioners (e.g., (37 C.F.R. §1.8 and §1.10 and MPEP §503), however, those protections and benefits are unavailable when Applicants fail to comply with/follow those rules.

Thus, it appears at this writing that Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below.

Once again, Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

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

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

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

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

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

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As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

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[1] *See*: MPEP §711.03(c) (I)(B).

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Petitioner is cautioned that failure to act promptly in this regard may be considered indicia of delay that is other than unintentional.

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

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

STATUTES, REGULATIONS

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

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

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

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in

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

filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate.

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YVONNE JETT
#62
19972 STANTON AVE
CASTRO VALLEY CA 94546

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Jett :
Application No. 12/006,034 : DECISION
Filed/Deposited: 31 December, 2007 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 7 May, 2010, and resubmitted on 13 May, 2010, improvidently identified as pursuant to "37 C.F.R. §1.81" (sic)—possibly intended pursuant to 37 C.F.R. §1.136—and in any case considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

Petitioner is reminded that the earlier decision herein expressly reminded her that her option is to file immediately a petition to revive pursuant to under 37 C.F.R. §1.137(b), or Petitioner risk her continued refusal to do so as *indicia* of delay that is not unintentional.

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." *More properly, Petitioner should file a petition to the Commissioner under 37 C.F.R. §1.137(b)* under 37 C.F.R. §1.181 *requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 20 June, 2008, with reply due absent extension of time on or before 20 September, 2008 (or the next business day).

The application went abandoned by operation of law after midnight 20 September, 2008.

Office records reflect that Petitioner filed a reply—untimely—on Tuesday, 23 September, 2008.

The Office mailed the Notice of Abandonment on 18 September, 2009.

On 24 September, 2009, Petitioner filed a paper (one page and a one-page attachment) considered as a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amendment was submitted *via* U.S. Postal Service first class mail (Certified (No. 7008 0150 00018068 9618) delivery dated (Monday) 22 September, 2008), without a certificate of mail/transmittal and without any noted linking of papers (*e.g.*, USPS transmittal number) and narration of facts/events, and without a copy of the papers averred to have been submitted. The petition was dismissed on 28 October, 2009.

On 20 November, 2009, Petitioner re-advanced her request to withdraw the holding of abandonment in a one-page paper with a one-page attachment considered *in globo* as a petition pursuant to 37 C.F.R. §1.181. Petitioner asserted that her reply to the 20 June, 2008, non-final Office action—transmitted on a date unstated—was received on 22 September, 2008. As indicated above, the Office record reflects that the reply in question was received in and by the Office on 23 September, 2008. Notably, the reply in question was received without a certificate of mail (37 C.F.R. §1.8), without an Express Mail transmission (37 C.F.R. §1.10), and without a date-stamped receipt card listing ("properly identifies") the papers submitted to and received by the Office (MPEP §503). Thus, Petitioner failed to use even one of those three methods sanctioned by the Office and pursuant to the Rules of Practice (37 C.F.R.). Moreover, as of this writing, Petitioner has failed to provide even a linkage that might tie the paper(s)/reply in question by U.S. Postal Service (USPS) tracking number (set forth above) with a USPS certified mail date-stamped card that Petitioner wishes to be considered. Petitioner states that "Operation of Reason [requires that her petition to withdraw the holding of abandonment] should be granted." Further, she asserts, "I am a *pro se* inventor and I feel that I should have some

consideration for that also." Thus, Petitioner would: on one hand ignore the Rules of Practice but impose some other unstated "Operation of Reason"; and on the other hand provide different sets of compliance rules for different groups of Applicants. Petitioner complained that the Office makes a "highly legalistic review of facts." In fact, the Office only calls upon all Applicants to operate by the same rules—a basic element of fundamental fairness. Petitioner stated, "It is not my fault and I should not be penalized for something that was not untimely." The Office made no determination as to "fault." Rather, the Office provided methodologies for Applicants to ensure that they document and independently confirm their dealings with the Office. Petitioner failed to satisfy the required showing and the petition was dismissed on 14 December, 2009.

On 24 December, 2009, Petitioner resubmitted her petition in the form of the following: "I am filing a renewed petition to withdraw the holding of abandonment for Application No. 12,006,034 (circled, sic). Here is a copy of proof of the date of mailing of my response that was mailed timely. Here is additional proof of Date mailed from post office. YJ" As noted previously, there is absolutely no linkage provided by Petitioner as between the papers untimely filed and the USPS documents (a date-stamped stub and USPS payment receipt).

The Rules of Practice provide protections and benefits for applicants and practitioners (e.g., (37 C.F.R. §1.8 and §1.10 and MPEP §503), however, those protections and benefits are unavailable when Applicants fail to comply with/follow those rules.

On 7 May, 2010, and again on 13 May, 2010, Petitioner requested an extension of time—such extension as may be obtained (up to four (4) months) may be made at the time of the submission of the substantive petition and **must** be accompanied by the appropriate fee therefore (see: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp for the then-current fee schedule).

Thus, it appears at this writing that Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below.

Once again, Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

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

> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

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[1] *See*: MPEP §711.03(c) (I)(B).

Petitioner is cautioned that failure to act promptly in this regard may be considered indicia of delay that is other than unintentional.

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

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

STATUTES, REGULATIONS

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by

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

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

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

> prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

---

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
Rudolf Schohe-Loop, et al. :
Application No. 12/006,086 : DECISION ON PETITION
Filed: December 28, 2008 : TO WITHDRAW
Attorney Docket No. 584212006401 : 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 4, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline.

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

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

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

cc: RUDOLF SCHOHE-LOOP
ARNDTSTRASSE 10A
WUPPERTAL 42327 GERMANY

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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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of :
Rudolf Schohe-Loop, et al. :
Application No. 12/006,086 : DECISION ON PETITION
Filed: December 28, 2007 : TO WITHDRAW
Attorney Docket No. 584212006401 : 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 18, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 29, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: MARSHALL, GERNSTEIN & BORUN, LLP
233 SOUTH WACKET DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

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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4/16/10

Patent No. :7569563
Ser. No. :12/006086
Inventor(s) :Kai Thede et al.
Issued : 8/4/09
Title : SUBSTITUTED QUINOLONES
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
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If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

MICHAEL MUCZYNSKI
MARSHALL GERSTEIN & BORUN LLP
233 S. WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

HR

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,569,563 :
Issue Date: August 4, 2009 :
Application No. 12/006,086 : ON PETITION
Filed: December 28, 2007 :
Attorney Docket No. 30793/44222 :

This is a decision on the petition filed April 29, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Ali A. Al-Taq	: DECISION ON REQUEST FOR
Patent Number	: 7612023	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/006,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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UNITY SEMICONDUCTOR CORPORATION
255 SANTA ANA COURT
SUNNYVALE CA 94085-4511

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JAN 0 7 2010

In re Application of	:	
Robert Norman	:	
Application No. 12/006,199	:	DECISION ON PETITION
Filed: December 30, 2007	:	
Attorney Docket No. P099.07	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Richard M. Franchi, Esq.
264 Shagbark Drive
Derby, CT 06418

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JUN 23 2010

OFFICE OF PETITIONS

In re Application of Franchi :
Application No. 12/006,223 : Decision on Petition
Filing Date: January 2, 2008 :
For: Method of Disinfecting and Wetting :
the Interior of a Building :

This is a decision on the petition under 37 CFR 1.137(a), filed February 4, 2010, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Facts

The Office mailed a final Office action on July 10, 2009. The final Office action indicated Claims 1-3 and 5-7 were accepted. The final Office action also indicated Claims 4 and 8 were rejected. The Office notes Claim 8 is dependent on Claim 4.

Petitioner filed an amendment on September 30, 2009.

The Office mailed an Advisory Action on October 21, 2009. The Advisory Action stated,

> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Claims 4 and 8 remain rejected under 35 U.S.C. 102(b) and the Applicant did not cancel or amend these claims or address the rejection in the remarks filed September 30th, 2009.

The Office also mailed a Notice of Non-Compliant Amendment on October 21, 2009. The Notice indicated the word "sequential" in Claim 4 was improperly underlined.

A second reply was never timely filed and an extension of time was not obtained. Therefore, the application became abandoned on October 14, 2009.[1]

A reply to the final Office action could have been filed with payment of $555 for a three-month extension of time as late as Monday, January 11, 2010.

Applicant's father became terminally ill in December 2009 and died in January 8, 2010. The copy of the death certificate filed with the petition indicates, although chronic obstructive pulmonary disease contributed to death, Applicant's father died primarily as a result of prostate cancer.

The petition states the father's illness required Petitioner to fly from Connecticut to Florida during December 2009, and to make funeral arrangements from January 8, 2010, to January 13, 2010.

The petition indicates Petitioner is a solo-practitioner at his law office in Connecticut. The petition states Petitioner had to "continue" some of his legal work in December 2009, and all of his legal work from January 8, 2010 through January 13, 2010. The Office presumes the term "continue," as used in the petition, is the equivalent of "postpone beginning and/or completing."

Petitioner filed an unsigned amendment on January 19, 2010, canceling claims 4 and 8. The amendment has a certificate of mailing date of January 14, 2010, three days past the last date the amendment could have been timely filed with an extension of time.

The Office mailed a Notice of Abandonment on January 21, 2010. The Notice states, "A proposed reply was received on 30 September 2009, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection."

The instant petition was filed February 4, 2010.

Discussion

"[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."[2] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[3]

---

[1] October 10, 2009, was a Saturday. October 11, 2009, was a Sunday. October 12, 2009, was a federal holiday. Therefore, a timely reply could have been filed without an extension of time as late as October 13, 2009.

[2] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

Pursuant to 37 CFR 1.137(a)(3), a grantable petition under 37 CFR 1.137(a) must include, with emphasis added,

> A showing to the satisfaction of the Director that the *entire delay* in filing the required reply *from the due date* for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable.

Since an extension of time was never obtained in this case, the due date for the reply to the final Office action was October 13, 2009. The instant petition fails to address the entire time period from October 13, 2009, the due date for the reply, until the filing of the instant petition. Specifically, the petition fails to address the period of delay from the date Applicant received the Notice of Non-Compliant Amendment and the Advisory Action until the date Applicant's father became terminally ill. Therefore, the petition must be dismissed.

Applicant's Current Options

Applicant has two main options if Applicant wishes to continue to pursue reviving the application:

(1) File a Request for Reconsideration Under 37 CFR 1.137(a), or
(2) File a Petition Under 37 CFR 1.137(b).

Requesting Reconsideration Under 37 CFR 1.137(a)

If a request for reconsideration *under 37 CFR 1.137(a)* is filed, the request should identify the date Applicant received the Notice of Non-Compliant Amendment and/or the Advisory Action, identify the specific date Applicant's father became terminally ill, *and* establish the entire delay between the two dates was unavoidable.

The request should demonstrate, but for Applicant's father becoming terminally ill, a proper reply would have been timely filed in this case. Specifically, the request should discuss all steps taken upon receiving the Notice and Advisory Action mailed October 21, 2009, to ensure a new and proper reply, along with an appropriate request for an extension of time, would be timely within the six-month statutory period ending on January 11, 2010.

Evidence supporting an assertion a reply would have been filed but for Applicant's father's illness may include past data involving other cases prosecuted by Applicant on his own behalf or the behalf of others. For example, Applicant could identify the number of cases previously prosecuted by Applicant on his own behalf, or on behalf of others, where an extension of time was successfully obtained and the number of cases where applications inadvertently became abandoned for failure to timely file a proper reply.

A reasonable individual, exercising the same level of care generally used by reasonable and prudent individuals in relation to their most important business, would recognize the need to budget enough time to prepare and file a reply to an Office action. When budgeting such time, the individual would take steps to anticipate delay that might arise as a result of foreseeable future events. Although the petition indicates the father became terminally ill in December 2009,

the petition does not address the extent to which Applicant's father becoming terminally ill was foreseeable. For example, the petition fails to indicate the date the father was first diagnosed with cancer. Based on the prior discussion, any request for reconsideration should address the extent to which Applicant's father becoming terminally ill was foreseeable.

The petition indicates Applicant is a solo-practitioner at his law office in Connecticut. The petition states Applicant had to "continue" some of his legal work in December 2009, and all of his legal work from January 8, 2010 through January 13, 2010. The Office has presumed the term "continue," as used in the petition, is the equivalent of "postpone beginning and/or completing." If the Office's current interpretation of the term "continue" is incorrect, any request for reconsideration should clarify the statement in the petition that includes the term "continue" in the petition.

Filing a Petition Under 37 CFR 1.137(b)

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive 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 (already submitted), the required petition fee ($810 for a 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.

A copy of a blank PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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ALFRED J. MANGELS
4729 CORNELL ROAD
CINCINNATI OH 45241-2433

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APR 21 2008

OFFICE OF PETITIONS

In re Application of
STEHR et al.
Application No. 12/006,240
Filed: 12/31/2007
Attorney Docket No. P050080/10WOUS

ON PETITION

This is a decision on the petition filed April 3, 2008, requesting that the above-identified application be accorded a filing date of December 31, 2007.

On December 31, 2007, applicants deposited the above-identified application. On January 30, 2008, the Office sent applicants a "Notice of Incomplete Nonprovisional Application," indicating that, *inter alia*, 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 April 3, 2008, applicants submitted, *inter alia*, the present petition and a copy of their return date-stamped postcard receipt. The postcard acknowledged receipt of "SPECIFICATION - (16 pages) (PCT/DE2006/000977) (in German) w/6 sheets drawings w/Int'l. Publication Cover Sheet - (2 pages) (WO 2007/003151 A1)" in the United States Patent and Trademark Office on December 31, 2007. Specifically, applicants explained:

> The application papers as filed are listed on the attached copy of the Receipt Postcard that accompanied those papers upon their filing by Express Mail on December 31, 2007, and as it was returned by the Office bearing the Office's serial number and filing date sticker. As that Postcard Receipt indicates, the papers that were filed included a specification that was identified parenthetically as PCT/DE2006/000977 and was in the German language. That specification was 16 pages in length, and it included 6 sheets of drawings and a 2 page International Publication Cover Sheet. The total number of pages of the application as filed aggregated 24 pages. Thus, those papers constituted the application as it was filed and it included the necessary drawings.

Petition dated April 3, 2008, p. 1-2.

Upon review of the record, the 6 sheets of drawings, deposited on December 31, 2007, have been located among the application papers. Therefore, the application, including the 6 drawing sheets, was complete on filing and will be granted a filing date of December 31, 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 December 31, 2007**, using the 6 sheets of drawings from PCT/DE2006/000977 submitted on December 31, 2007.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Hyde et al.	:	
Application No. 12/006,255	:	DECISION ON PETITION
Filed: December 31, 2007	:	
Attorney Docket No. QQ1 - 0055US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 13, 2009. A Notice of Abandonment was mailed August 21, 2009.

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

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

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

This application is being referred to Technology Center AU 3767 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of

KARNWIE-TUAH, Daniel
Application No. 12/006,319
Filed: December 31, 2007
Attorney Docket No. **22882-003**

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

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, M.S. 641
NEW HOLLAND, PA 17557

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MAR 11 2010

In re Application of :
Herbert M. Farley, et al. :
Application No. 12/006,337 : DECISION ON PETITION
Filed: January 2, 2008 :
Attorney Docket No. 18346 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 3, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 9, 2009.

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 3671 for appropriate action by the Examiner in the normal course of business on the reply received January 5, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL G. HAMS
500 DILLER AVENUE
NEW HOLLAND, PA 17557

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PATENT OFFICE OF
DR. CHUNG S. PARK
P.O. BOX 62312
SUNNYVALE, CA 94088-2312

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Jaewoo Jung :
Application No. 12/006,350 :
Filed: December 31, 2007 :
Attorney Docket No. EPSD-P002 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 4, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 8, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center AU 2628 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/006,350	12/31/2007	Jaewoo Jung	EPSD-P002

CONFIRMATION NO. 6244

46513
PATENT OFFICE OF DR. CHUNG S. PARK
P. O. BOX 62312
SUNNYVALE, CA 94088-2312

NONPUBLICATION RESCISSION LETTER

Date Mailed: 03/09/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/18/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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JACKSON WALKER, L.L.P.
112 E. PECAN, SUITE 2400
SAN ANTONIO, TX 78205

Mail Date: 04/20/2010

Applicant	: Jack Huang	: DECISION ON REQUEST FOR
Patent Number	: 7635206	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/006,353	: 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 **190** 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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Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Xin Liu et al.	:	
Application No. 12/006,368	:	DECISION ON PETITION
Filed: December 31, 2007	:	TO WITHDRAW
Attorney Docket No. 70107.98 (IDT 2262)	:	FROM RECORD
	:	

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

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

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

/Kimberly A. Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

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Washington, DC 20001-4413

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OCT 23 2009

OFFICE OF PETITIONS

In re Application of
Xin Liu et al.
Application No. 12/006,368
Filed: December 31, 2007
Attorney Docket No. 70107.98 (IDT 2262)

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 September 28, 2009.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP, IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

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.
12/006,372	03/21/2008	Lee Edgar Sartain		6072

7590 04/04/2008

Lee Edgar Sartain
5250 Roosevelt Blvd. Lot #16
Clearwater, FL 33760

EXAMINER	
ART UNIT	PAPER NUMBER
2859	

MAIL DATE	DELIVERY MODE
04/04/2008	PAPER

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

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

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042008

Lee Edgar Sartain
5250 Roosevelt Blvd., Lot #16
Clearwater, FL 33760

APR - 4 2008

In re Application of:
Lee Edgar Sartain
Serial No.: 12/006,372
Filed: March 21, 2008
Title: TRUE ELEVATION GRADE TAPE

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

This is a decision on the petition filed on January 2, 2008, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. §1.102(d).

The petition to make the application special is DENIED.

Effective August 25, 2006, the accelerated examination procedure outlined under MPEP 708.02.VIII was replaced by the new accelerated examination procedure outlined in MPEP 708.02(a) and in the Federal Register, vol. 71, No. 122 of June 26, 2006 (71 Fed. Reg. 36323).

To be eligible for accelerated examination under MPEP § 708.02(a) in accordance with 37 C.F.R. § 1.102(d), the following conditions are required:

1. the application is not a reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. the application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under MPEP 708.02(a), and in accordance with 37 C.F.R. § 1.102(d) because: 1) it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; it was not complete and in condition for

examination because, at the time of filing, the application did not include the required fees, a specification required under 35 USC 112, first paragraph, and drawing figures in compliance with 37 CFR 1.84. The deficiencies noted above resulted in the application not accorded a filing date on January 2, 2008 and a Notice of Incomplete Nonprovisional Application being mailed on January 22, 2008.

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

It is noted that the petition lacks several requirements for a grantable petition under the current accelerated examination program.

Information about the current accelerated examination procedure may be obtained from the USPTO website at http://www.uspto.gov/web/patents/accelerated/.

Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely.

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

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

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OFFICE OF PETITIONS

LEE EDGAR SARTAIN
8291 DAMES PT. XING BLVD. 6101
JACKSONVILLE FL 32277

In re Application of	:	
Lee Edgar SARTAIN	:	
Application No. 12/006,372	:	DECISION ON PETITION
Filed: March 21, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition, filed May 04, 2009, which is being treated as a petition under 37 CFR 1.8(b) (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.8(b) 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 April 09, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 10, 2008.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the Notice to File Missing Parts mailed April 09, 2008. A review of the Office records indicates that the response was timely filed with a five (5) month extension of time on November 13, 2008 with a Certificate of Mailing date of November 09, 2008, which makes the reply timely filed.

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.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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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SEP 15 2008

In re Application of :
Ahluwalia, et al. :
Application No. 12/006,468 : ON PETITION
Filed: NO FILING DATE ACCORDED :
Attorney Docket No.: 003/01283 DIV :

This is a decision on the petition under 37 CFR 1.57 filed August 4, 2008, requesting that the above-identified application be accorded a filing date of January 3, 2008.

The petition is **dismissed**.

The application was filed on January 3, 2008. On July 8, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Non-Provisional Application stating that the application had not been accorded a filing date because a specification was missing. The notice allowed a non-extendable period for reply of two-months from its mailing date.

The present petition was filed on August 4, 2008, and was accompanied by a copy of the specification of prior-filed non-provisional application serial number 10/780,348.

37 CFR 1.57 states, in pertinent part, that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior- filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
>
> (i) Supply a copy of the prior-filed application, except where the prior- filed application is an application filed under 35 U.S.C. 111;
>
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

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

...

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

The petition fails to comply with 37 CFR 1.57(a).

Petitioner has not provided an amendment to include the omitted specification as required 37 CFR 1.57(a). It is noted that a request is contained in the body of the petition to amend the subject application so as to include the specification of the prior-filed application. The request to amend the application must be made on a paper separate from the petition. Further to this point, 37 CFR §§ 1.4 and 1.121 provide, in pertinent part,

> ***§ 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 subjects.
>
> ***§ 1.121 Manner of making amendments in applications***
>
> (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.

The renewed petition filed must be accompanied by an amendment requesting entry of the inadvertently omitted specification and satisfying the requirements of 37 CFR §§ 1.4 and 1.121as cited above.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision in order to be considered timely. This period may not be extended pursuant to 37 CFR 1.136.

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

By mail:	Mail Stop Petition Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Ahluwalia, et al. :
Application No. 12/006,468 : ON PETITION
Filed: January 3, 2008 :
Attorney Docket No.: 003/01283 DIV :

This is a decision on the renewed petition under 37 CFR 1.57 filed October 23, 2008.

The renewed petition is **granted.**

The application was filed on January 3, 2008. On July 8, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Non-Provisional Application stating that the application had not been accorded a filing date because a specification was missing. The notice allowed a non-extendable period for reply of two-months from its mailing date. A petition under 37 CFR 1.57 was first filed on August 4, 2008, and dismissed by a decision mailed September 15, 2008.

The instant renewed petition was filed on October 23, 2008, and is accompanied by an amendment requesting entry of the omitted specification found in non-provisional application 10/780,348. A review of the application file reveals that the subject application claimed priority under 37 CFR 1.78 to non-provisional application 10/780,348.

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporation by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57, applicant's are required to amend the application to include the inadvertently omitted material, and if the application was not filed under 35 U.S.C.§111, supply a copy of the prior-filed application and identify where the inadvertently omitted portion of the application can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a)(3) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application was determined not to be entitled to a filing date. Accordingly, a petition is required to amend the application pursuant to 37 CFR 1.57. The petition is granted, accordingly.

The application will be accorded a filing date of August 31, 2007.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of January 3, 2008. The Office of Patent Application Processing will issue a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

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HOLLSTEIN KEATING CATTELL JOHNSON & GOLDSTEIN P.C.
WILLOW RIDGE EXECUTIVE OFFICE PARK
750 ROUTE 73 SOUTH, SUITE 301
MARLTON NJ 08053

MAILED

JUN 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Samuel G. Vosbikian	:	
Application No. 12/006,504	:	ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. 2014.00089	:	

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

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant's attorney that applicant is 65 years of age, and a statement from applicant that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3723 for action on the merits commensurate with this decision.

Joan Olszewski
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

Mail Date: 04/21/2010

Applicant	: Szu-Fu Shen	: DECISION ON REQUEST FOR
Patent Number	: 7607905	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/006,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENNIS W. DAVIS
2202 EAST WASHINGTON AVENUE
EUSTIS FL 32726

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OFFICE OF PETITIONS

In re Application of
Jeffrey Lewis Powers et al
Application No. 12/006,511
Filed: January 3, 2008
For: SKIN TREATMENT DISPENSER AND METHOD OF MANUFACTURE

DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed July 7, 2009 which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(c) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Additionally, the petition and amendment filed July 7, 2009, are not proper since the papers are signed by only one inventor. In accordance with 37 CFR 1.33(b)(4), all inventors must sign.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Before the petition under 37 CFR §§ 1.78(a)(3) and (a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) compying with the above mattes are required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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DENNIS W. DAVIS
2202 EAST WASHINGTON AVENUE
EUSTIS FL 32726

In re Application of	:	
Jeffrey Lewis Powers et al	:	
Application No. 12/006,511	:	DECISION ON PETITION
Filed: January 3, 2008	:	UNDER 37 CFR 1.78(a)(3)
For: SKIN TREATMENT DISPENSER AND METHOD OF MANUFACTURE	:	AND (a)(6)

This is a decision on the renewed petition filed November 3, 2009, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(c) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable. The above was required in the decision mailed August 31, 2009.

Before the petition under 37 CFR §§ 1.78(a)(3) and (a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) compying with the above mattes are required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS W. DAVIS
2202 EAST WASHINGTON AVENUE
EUSTIS FL 32726

MAILED

FEB 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Lewis Powers et al	:	
Application No. 12/006,511	:	DECISION ON PETITION
Filed: January 3, 2008	:	UNDER 37 CFR 1.78(a)(3)
For: SKIN TREATMENT DISPENSER AND METHOD OF MANUFACTURE	:	AND (a)(6)

This is a decision on the renewed petition filed December 28, 2009, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(c) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

In the amendment to the specification filed December 28, 2009, it states that "... application Ser. No. 10/314,825 filed on December 9, 2002 (now abandoned), which claims priority of

provisional patent application Ser. Nos. 60/515,718, 60/515,775, 60/515,793 and 60/515,794, all filed on October 30, 2003." However, the filing date of Application No. 10/314,825 is on December 9, 2002, which is **prior to the filing date** of the provisional applications on October 30, 2003. Therefore, the benefit claim to the provisional applications is not proper. Petitioner is encouraged to note that, "The nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, **the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.**"

Before the petition under 37 CFR §§ 1.78(a)(3) and (a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) compying with the above mattes are required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS W. DAVIS
2202 EAST WASHINGTON AVENUE
EUSTIS, FL 32726

MAILED

JUN 2 9 2010

OFFICE OF PETITIONS

In re Application of :
Jeffrey Lewis Powers et al :
Application No. 12/006,511 : DECISION ON PETITION
Filed: January 3, 2008 : UNDER 37 CFR 1.78(a)(3)
For: SKIN TREATMENT DISPENSER AND :
METHOD OF MANUFACTURE :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3754 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/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
12/006,511	01/03/2008	3754	1400		26	10

CONFIRMATION NO. 6694

Dennis W. Davis
2202 East Washington Avenue
Eustis, FL 32726

CORRECTED FILING RECEIPT

Date Mailed: 06/25/2010

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

Applicant(s)

Jeffrey Lewis Powers, Plymouth, MI;
Dennis Willard Davis, Eustis, FL;
David Paul Thimm, Plymouth, MI;
James Marvin Stenz, Fenton, MI;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 11/520,962 09/14/2006
which claims benefit of 60/716,844 09/14/2005
This application 12/006,511
is a CIP of 10/915,720 08/10/2004 PAT 7,316,332
which is a CIP of 10/729,757 12/05/2003 PAT 7,135,011
which is a CIP of 10/314,825 12/09/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 01/30/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/006,511**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Skin treatment dispenser and method of manufacture

Preliminary Class

222

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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Alexandria, VA 22313-1450
www.uspto.gov

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
John Smolka	:	
Application No. 12/006,599	:	DECISION ON PETITION
Filed: January 4, 2008	:	TO WITHDRAW
Attorney Docket No. 70107.101 (IDT 2377)	:	FROM RECORD
	:	

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

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

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

/Kimberly A. Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

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

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of :
John Smolka :
Application No. 12/006,599 : DECISION ON PETITION
Filed: January 4, 2008 : TO WITHDRAW
Attorney Docket No. 70107.101 (IDT 2377) : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 28, 2009.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75213

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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MITEL NETWORKS CORPORATION
MICHELLE WHITTINGTON ESQ
7300 WEST BOSTON STREET
CHANDLER AZ 85226

COPY MAILED

DEC 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Sylvain Leduc	:	
Application No. 12/006,608	:	ON PETITION
Filed: January 4, 2008	:	
Attorney Docket No. 637 (P1885US00)	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 23, 2008.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers mailed January 31, 2008. This Notice set an extendable period for reply of two (2) months. No reply having been received, the application became abandoned on April 1, 2008. The Office mailed a Notice of Abandonment on October 14, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of replacement drawings.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

EMERY L. TRACY
P.O. BOX 1518
BOULDER CO 80306

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Kerwood :
Application No. 12/006,613 : DECISION
Filed: 4 January, 2008 :
Attorney Docket No. K009.PAT-2 :

This is a decision on the petition filed on 25 March, 2009, which is being treated as a petition under 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. (*See* 37 C.F.R. §1.137(f).)

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

As to Allegations of
Failure to Notice

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(f) are the petition and fee therefor, a reply in the form of the Notice of subsequent foreign/international filing (in an eighteen-month publication country) and the date thereof, and a proper statement of unintentional delay under the regulation.

BACKGROUND

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on 19 December, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c), Petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

> (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
> (2) the petition fee as set forth in 37 C.F.R. §1.17(m); and
> (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. §122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication *cannot be generated at this writing.*

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]

As to Allegations of
Failure to Notice

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

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

CONCLUSION

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

This application is being released to Technology Center/AU 2618 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 decision has been acknowledged by the Technology Center/AU. It is noted that all inquiries with regard to substantive examination need be directed to the Technology Center/AU where 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[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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request—*Could not be generated at this writing.*

---

[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.

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/006,627	01/04/2008	Jung-Soo An	SDIYOU.091AUS	7004

7590 07/01/2010

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
07/01/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 06/30/2010 NFARMER
01/07/2008 MMARZI1 00000000 12006627
02 FC:2111 -510.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/006,638	01/04/2008	Seong-Gu Kim	SP7231-US (SAMS06-07231)	6614

7590 04/09/2010

DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

EXAMINER
FEILD, LYNN DIANA

ART UNIT	PAPER NUMBER
2400	

NOTIFICATION DATE	DELIVERY MODE
04/09/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Replin. Ref: 04/08/2010 [illegible]
[illegible]
[illegible] 0510.00 CR

Adjustment date: 04/03/2010 [illegible]
01707/2008 EAYALEW1 20030032 12006638
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Christopher C. Haramis et al :
Application No. 12/006,645 : ON PETITION
Filed: January 4, 2008 :
Attorney Docket No. 0206-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice mailed January 30, 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 drawings submitted on January 7, 2009 are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES,LLCC
231 SOMERVILLE ROAD
BEDMINSTER NJ 07821

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MAY 0 7 2009

OFFICE OF PETITIONS

In re Application of
Christopher C. Haramis et al
Application No.12/006,645
Filed: January 4, 2008
Attorney Docket No. 0206-2

DECISION ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Replacement Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed January 30, 2008, is accepted as having been unintentionally delayed.

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEARHART LAW LLC
4 FERNDALE ROAD
CHATHAM NJ 07928

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Gearhart :
Application No. 12/006,646 : DECISION
Filed/Deposited: 4 January, 2008 :
Attorney Docket No. 1502 GI 01 :

This is a decision on the petition filed on 14 May, 2008, seeking a filing date for the application, and properly considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

The instant application was deposited on 4 January, 2008.

On 30 January, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Application in that the application as deposited did not appear to include the drawings as required by 35 U.S.C. §113—thus, the application had not been accorded a filing date.

OPAP indicated that Petitioner might, *inter alia*:

- contend via petition that drawings were present upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the drawings as described in the specification; or

- submit the a copy of the drawing(s) as described in the specification and accept the date of that submission as the filing date.

OPAP set a two- (2-) month period for reply.

On 14 March, 2008, OPAP mailed a Notice of Missing Parts.

On 14 May, 2008, Petitioner filed the instant petition with an oath/declaration, a copy of what was averred to be the entire application with two (2) sheets of drawings all present on deposit, and a copy of a receipt card, however, that card is not date-stamped (*see*: MPEP §503)—but again without a copy of the specification, and it was not until 11 September 2008, that Petitioner submitted a copy of the specification with an unmarked copy of the date-stamped receipt card.

ANALYSIS

A search of the official file reveals that:

- on 4 January, 2008, Petitioner deposited the instant application;
- the Office record reflects that on deposit the application did not include at least one drawing as required by 35 U.S.C. §113, and so the application had not been accorded a filing date.

Petitioner avers that the instant application contains an express incorporation by reference of provisional Application No.60/878,567 (the '567 application) (filed 4 January, 2007), however, as of this writing it appears that Petitioner has filed no amendment to seek entry of the drawings by the Examiner

(Petitioner has the option to make a showing of the presence of the drawings on deposit with a date-stamped receipt card.)

Accordingly, the application, including the specification (description, claims and abstract) with preliminary amendment, and 12 sheets of drawings, is entitled to a filing date of 21 September, 2007.

The Notice mailed on 30 January, 2008, was not sent in error and will not be disturbed.

CONCLUSION

Petitioner avers that express incorporation by reference was made in the first line of the specification and the drawings applicant would like to enter into this application are averred to be in/from the '567 application. Therefore, since the drawings being added are asserted to be expressly incorporated by reference, a petition is unnecessary. Applicant is entitled to file an amendment under 37 C.F.R. §1.57(b), which will be considered by the Examiner.

The instant petition is **dismissed**; Petitioner is given two (2) montha within which to:

- present a date-stamped receipt card evidencing submission of at least one drawing on deposit of the application; or
- file an amendment under 37 C.F.R. §1.57(b).

Entry of the amendment—if/when filed—will be considered by the Examiner.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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

§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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FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

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JUL 07 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of :
LIN, JIM CHING-RONG :
Application Serial No. 12/006,702 :
Filed: January 4, 2008 :
For: **SYSTEMS AND METHODS FOR VISUALIZING MULTIPLE VOLUMETRIC DATA SETS IN REAL TIME** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed December 5, 2008, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in a Third Supplemental Information Disclosure Statement filed December 5, 2008 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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FIVE HOUSTON CENTER
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HOUSTON TX 77010

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DEC 22 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of
SMITH, STUART, et al.
Application Serial No. 12/006,702
Filed: January 4, 2008
For: **SYSTEMS AND METHODS FOR SELECTIVELY IMAGING OBJECTS IN A DISPLAY OF MULTIPLE THREE-DIMENSIONAL DATA-OBJECTS**

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed August 14, 2008, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in a First Supplemental Information Disclosure Statement filed August 14, 2008 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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FIVE HOUSTON CENTER
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HOUSTON TX 77010

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JUN 16 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of :
SMITH, STUART, et al. :
Application Serial No. 12/006,702 :
Filed: January 4, 2008 :
For: **SYSTEMS AND METHODS FOR SELECTIVELY IMAGING OBJECTS IN A DISPLAY OF MULTIPLE THREE-DIMENSIONAL DATA-OBJECTS** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed January 6, 2010, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that the information submitted in an Information Disclosure Statement filed February 11, 2008 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

However, the Information Disclosure Statement filed February 11, 2008 was not submitted in accordance with MPEP 724.02. Namely, the material was not marked as "Trade Secret", "Proprietary" or "Subject To Protective Order" as required. There is no indication in any of the submitted papers accompanying the IDS, that they are "Trade Secret" material or the like.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 28 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of :
LIN, JIM CHING-RONG :
Application Serial No. 12/006,714 :
Filed: January 4, 2008 :
For: **SYSTEMS AND METHODS FOR VISUALIZING MULTIPLE VOLUMETRIC DATA SETS IN REAL TIME** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed December 5, 2008, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in a Third Supplemental Information Disclosure Statement filed December 5, 2008 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

In re application of :
LIN, JIM CHING-RONG :
Application Serial No. 12/006,714 :
Filed: January 4, 2008 :
For: **SYSTEMS AND METHODS FOR VISUALIZING MULTIPLE VOLUMETRIC DATA SETS IN REAL TIME** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed January 18, 2010, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in a Seventh Supplemental Information Disclosure Statement filed January 18, 2010 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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.
12/006,745	01/04/2008	Veronica L. Bathurst		7074

7590 03/10/2010

Veronica L. Bathurst
19857 Susan Ct.
Clinton Twp., MI 48035

EXAMINER	
HUSON, GREGORY L	

ART UNIT	PAPER NUMBER
3751	

MAIL DATE	DELIVERY MODE
03/10/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

[illegible]

Adjustment date: 03/10/2010 MFARMER
02/22/2008 SDIRETAI 00000229 12085745
02 FC:2111 -335.00 CR

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

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Delaat, et al. :
Application No. 12/006,747 : DECISION
Filed/Deposited: 4 January, 2008 :
Attorney Docket No. 69976(208654) :

This is a decision on the petition filed on 12 January, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

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

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

As to the Request to Withdraw
the Holding of Abandonment

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

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

For reference: Petitioners' 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. (Further, the regulations at 37 C.F.R. §1.181 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 to File Missing Parts (*inter alia*, oath/declaration, surcharge, replacement drawings) (copy enclosed) mailed on 10 March, 2008 (the 10 March, 2008, Office action), with reply due absent extension of time on or before 10 May, 2008.

The application went abandoned by operation of law after midnight 10 May, 2008.

The Office mailed a Notice of Abandonment (copy enclosed) on 13 November, 2008.

On 12 January, 2009, 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 the averment as non-receipt of the 10 March, 2008, Office action, and Petitioner included a copy of the docket sheet, but no calendaring/docket for the due-date as required. Moreover, Petitioner's attention is directed to the guidance in the Commentary at MPEP §711.03(c)(I)) generally 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]
>
> ***

Thus, as indicated earlier in this decision (see the italicized discussion immediately before the BACKGROUND and with more particularity the excerpt from the MPEP, above), the guidance in the Commentary at MPEP §711.03(c)(I)) sets forth a particular set of statements that must be provided by Petitioner to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. This Petitioner has failed to do.

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 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 a terminal disclaimer and fee where appropriate. (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
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P. O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

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

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Delaat, et al. :
Application No. 12/006,747 : DECISION
Filed/Deposited: 4 January, 2008 :
Attorney Docket No. 69976(208654) :

This is a decision on the petition filed on 8 May, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

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

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

As to the Request to Withdraw
the Holding of Abandonment

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

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

For reference: Petitioners' 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. (Further, the regulations at 37 C.F.R. §1.181 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 to File Missing Parts (*inter alia*, oath/declaration, surcharge, replacement drawings) (copy enclosed) mailed on 10 March, 2008 (the 10 March, 2008, Office action), with reply due absent extension of time on or before 10 May, 2008.

The application went abandoned by operation of law after midnight 10 May, 2008.

The Office mailed a Notice of Abandonment (copy enclosed) on 13 November, 2008.

On 12 January, 2009, 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 the averment as non-receipt of the 10 March, 2008, Office action, and Petitioner included a copy of the docket sheet, but no calendaring/docket for the due-date as required, and Petitioner failed to make the statements as required and set forth in the guidance in the Commentary at MPEP §711.03(c)(I)). The petition was dismissed on 9 March, 2009.

On 8 May, 2009, 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 the averment as non-receipt of the 10 March, 2008, Office action, and Petitioner included a copy of the docket sheet with a calendaring/docket for the due-date, however, Petitioner failed to make the statements as required—and as previously and expressly set forth in the decision of 9 March, 2009, to include, *inter alia*, a statement of reliability of the docketing system and that the Office action in question was not received at the correspondence address of record, and set forth in the guidance in the Commentary at MPEP §711.03(c)(I)).

(Petitioner protested that he could not access the application to include a copy of the 10 March, 2009, Notice of Missing Parts and a reply thereto, however, it is noted that a copy of that mailing was sent to Petitioner with the dismissal of 9 March, 2009, and again is included with this decision—along with a copy of the filing receipt.)

Once again, Petitioner's attention is drawn expressly to the guidance in the Commentary at MPEP §711.03(c)(I)). Petitioner is reminded to satisfy these requirements, which are the mandated showings to seek a plea of relief pursuant to the regulations at 37 C.F.R. §1.181, to wit:

***

> 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]

***

Thus, as indicated earlier in this decision (see the discussion immediately before and within the BACKGROUND and with more particularity the excerpt from the MPEP, above), the guidance in the Commentary at MPEP §711.03(c)(I)) sets forth a particular set of statements that must be provided by Petitioner to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. This Petitioner has failed to do.

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

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[1] *See*: MPEP §711.03(c) (I)(A).

made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS

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

Allegations as to the Request to Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

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

was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/006,747	01/04/2008	Wouter Delaat	69976(208654)

CONFIRMATION NO. 7085

Edwards Angell Palmer & Dodge LLP
P.O.Box 55874
Boston, MA 02205

FORMALITIES LETTER

OC0000000028711245

Date Mailed: 03/10/2008

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
  Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - Numbers, letters, and reference characters on the drawings must measure at least 0.32 cm (1/8 inch) in height. See Figure(s) 2, 8, 17, 18.
  - The drawings submitted to the Office are not electronically reproducible because portions of figures 1-8, 13, 15, 16, 19 are missing and/or blurry.
- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application**. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical

to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

To Download Patentin Software, visit http://www.uspto.gov/web/patents/software.htm
For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov**

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of **$65** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a small entity

- $65 Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/nfissha/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/006,747	01/04/2008	1645	2730	69976(208654)	66	7

CONFIRMATION NO. 7085

Edwards Angell Palmer & Dodge LLP
P.O.Box 55874
Boston, MA 02205

FILING RECEIPT

OC00000028711244

Date Mailed: 03/10/2008

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

Applicant(s)

Wouter Delaat, Rotterdam, NETHERLANDS;
Franklin Grosveld, Rotterdam, NETHERLANDS;

Assignment For Published Patent Application

Erasmus University Medical Center Faculty of Medicine Department of Cell Biology and Genetics, Rotterdam, NETHERLANDS

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of PCT/IB2006/002268 07/03/2006

Foreign Applications

UNITED KINGDOM 0605449.8 03/17/2006
UNITED KINGDOM 0513676.1 07/04/2005

If Required, Foreign Filing License Granted: 03/06/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/006,747**

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

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

Title

4C

Preliminary Class

435

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

COPY MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Delaat, et al. :
Application No. 12/006,747 : DECISION
Filed/Deposited: 4 January, 2008 :
Attorney Docket No. 69976(208654) :

This is a decision on the petition filed on 19 June, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (*inter alia*, oath/declaration, surcharge, replacement drawings) mailed on 10 March, 2008 (the 10 March, 2008, Office action), with reply due absent extension of time on or before 10 May, 2008.

The application went abandoned by operation of law after midnight 10 May, 2008.

The Office mailed a Notice of Abandonment on 13 November, 2008.

On 12 January, 2009, 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 the averment as non-receipt of the 10 March, 2008, Office action, and Petitioner included a copy of the docket sheet, but no calendaring/docket for the due-date as required, and Petitioner failed to make the statements as required and set forth in the guidance in the Commentary at MPEP §711.03(c)(I)). The petition was dismissed on 9 March, 2009.

On 8 May, 2009, 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 the averment as non-receipt of the 10 March, 2008, Office action, and Petitioner included a copy of the docket sheet with a calendaring/docket for the due-date, however, Petitioner failed to make the statements as required—and as previously and expressly set forth in the decision of 9 March, 2009, to include, *inter alia*, a statement of reliability of the docketing system and that the Office action in question was not received at the correspondence address of record, and set forth in the guidance in the Commentary at MPEP §711.03(c)(I)). (Petitioner protested that he could not access the application to include a copy of the 10 March, 2009, Notice of Missing Parts and a reply thereto, however, it is noted that a copy of that mailing was sent to Petitioner with the dismissal of 9 March, 2009, and again is included with the decision—along with a copy of the filing receipt.) The petition was dismissed on 15 June, 2009

On 19 June, 2009, 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 the averment as non-receipt of the 10 March, 2008, Office action, and Petitioner included copies of documents and made the statements consistent with the guidance in the Commentary at MPEP §711.03(c)(I)) and a plea of relief pursuant to the regulations at 37 C.F.R. §1.181, to wit:

***

> 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]
>
> ***

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

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

STATUTES, REGULATIONS

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

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[1] *See*: MPEP §711.03(c) (I)(A).

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

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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

It appears that Petitioner has satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 13 November, 2008, Notice of Abandonment is **vacated**.

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Feb-08

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7701 TELEGRAPH ROAD
ALEXANDRIA VA 22315-3860

COPY MAILED

FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
Alpern et al. :
Application Number: 12/006757 : DECISION DISMISSING PETITION
Filing Date: 01/02/2008 : AS MOOT
Attorney Docket Number: COE-612 :

This is a decision on the petition styled under 37 CFR 1.181, filed on February 5, 2008, which, in view of petitioner's statement that an application was deposited by Express Mail, is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of January 2, 2008.

Petitioner asserts that application papers were deposited with the USPS on January 2, 2008, pursuant to 37 CFR 1.10, bearing Express Mail No. EJ660127606US, but were believed lost after receipt at the USPTO. A copy of the application papers has been provided with the petition.

A review of the Office PALM records reveals that this application was received and accorded a filing date of January 2, 2008. The application papers were assigned Application No. 12/006,757.

As the application has been accorded a filing date of January 2, 2008, the present petition is unnecessary and will be dismissed as involving a moot issue.

It is noted that a Filing Receipt was mailed on February 14, 2008.

No petition fee is due and none has been charged.

The copies of the application papers filed with the petition will not be used for processing or examination, but will be retained in the application file.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LAW OFFICES OF ANDREW Y. SCHROEDER
500 SOUTH BROADWAY
SUITE 222
SANTA MARIA CA 93454

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Frank Thompson :
Application No. 12/006,772 : DECISION ON PETITION
Filed: January 7, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1SQFT031 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 7, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 2834 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/10

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No 12/006774.: 7628137 B1

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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: Provisional application 60/626,021 was filed 09 November 2004 while the Non-Provisional application number 12/006,774 was filed 07 January 2008. In order to receive priority to the Provisional application, the Non-Provisional application must be filed within a one (1) year period of time of the filing of the Provisional application. Because the Non-Provisional application was filed more than three (3) years after the filing date of the Provisional application, no priority is granted.

/Stephen K. Cronin/ — **SPE**

3747 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

GEORGE E. BULLWINKEL
425 WOODSIDE AVENUE
HINSDALE IL 60521

MAILED

JUL 08 2009

OFFICE OF PETITIONS

In re Application of :
Joseph P. Szcap :
Application Number: 12/006808 :
Filing Date: 01/04/2008 :
Attorney Docket Number: 074-1-001 :

ON PETITION

This is a decision on the petition filed on June 15, 2009, under 37 CFR 1.137(a),[1] to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or, as discussed below, "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on April 5, 2008, for failure to timely file a reply to the Notice to File Missing Parts of Nonprovisional Application mailed on February 4, 2008, which set

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the 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 37 CFR 1.137(a) was unavoidable; and

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

a two (2) month shortened period for reply. Notice of Abandonment was mailed on October 17, 2008.

Petitioner asserts, via his registered patent attorney that,

> Mr. Szczap first tried to patent his invention in September 2007 by contacting attorney Theresa V. Johnson, a Westmont, Illinois solo practitioner. Ms. Thompson holds herself out as a specialist in intellectual property, including patent law, though never registered to practice before the Patent Office. After an initial consultation she provided Mr. Szczap with an initial patentability "search", and on September 25, 2007 she had Mr. Szczap sign a fee agreement. She disclosed that while she was not licensed to practice before the USPTO, she would "hire the services of a qualified patent attorney" (not identified) with whom she would split 50% of her legal fees.
>
> Later, Mr. Szczap learned that she had turned the matter over to Brian Rayve of Ogden, Utah, who did produce a draft patent application. After making certain revisions, Mr. Szczap signed the application and wrote a check for the filing fees on December 10, 2007. Only after repeated requests did Mr. Szczap finally receive a copy of the filing receipt, in an August 7, 2008 email from Mr. Rayve. On October 8, 2008 Mr. Rayve was suspended from USPTO practice for two years for repeatedly tendering bad checks for USPTO fees, including that for Mr. Szczap's application.
>
> Mr. Szczap first learned of this via a June 1, 2009 certified letter from Ms. Johnson, saying that his application had probably become abandoned, and that Mr Rayve had not returned any of the files as the Director's Order required. Mr. Szczap immediately requested that I file his revocation and new power of attorney (enclosed herewith) and petition to revive the application. It is therefore my considered opinion that if this application is now abandoned for failure to pay the filing fee, such abandonment was unavoidable within the meaning of Patent Rule 1.137, and Mr. Szczap's petition to revive should be granted.

At the outset, the petition lacks the reply required by 37 CFR 1.137(a)(1). In particular, petitioner has not submitted the required fees or executed oath or declaration as required by the Notice to File Missing Parts of Nonprovisional Application mailed on February 24, 2008. The submission of the required reply is a prerequisite for a grantable petition. A copy of the Notice mailed on February 24, 2008 is enclosed for petitioner's reference in preparing a reply.

Further, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action

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[2] 35 U.S.C. § 133.

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

[4] See MPEP 711.03(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

At the outset, the Office is requesting a documented showing of the transactions between Johnson, petitioner, and Rayve. In particular, the Office is requesting a showing of evidence which let petitioner to believe that Johnson was a registered patent practitioner, and when petitioner learned that Johnson was, in fact, not a registered patent practitioner. It is further noted that the petition also refers to a "Ms. Thompson" as being in contact with petitioner concerning his application. If another practitioner or other individual was involved in the prosecution of this application, a showing of evidence detailing the involvement of that practitioner or individual should be provided with any renewed petition.

It is recommended that petitioner should sent a letter by certified mail to Rayve (and perhaps to Johnson and/or any other attorney involved, as the attorney(s) who contacted Rayve), stating that the Office is requesting their assistance in determining whether the delay in responding to the Notices mailed on February 4, 2008, was unavoidable. A copy of the letter, and any response received thereto, should be included in any renewed petition.

Petitioner's statement that he never personally contacted Rayve notwithstanding, the showing of record suggests that petitioner chose to rely upon Rayve. In this regard, it is noted that the petition states that petitioner "signed the application and wrote a check for the filing fees on December 10, 2007." Was petitioner advised what person had prepared and would file in the USPTO the application which petitioner had signed? The Office is requesting copies of any documents petitioner may have signed as well as a copy of the check, showing to whom the check was made payable.

Further, assuming petitioner chose to rely upon Rayve, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 USC 41(c).[6] Rather, such reliance merely shifts the focus of the inquiry from petitioner to whether Rayve acted reasonably and

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[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] See California Med. Prod. v. Technol Med. Prod., 921 F. Supp. 1219, 1259 (D. Del. 1995).

prudently.[7] Nevertheless, petitioner is bound by any errors that may have been committed by Rayve.[8]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[9] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[10]

Further, assuming, *arguendo*, petitioner was prosecuting the application *pro se*, petitioner is responsible for the proper prosecution of his application. The failure of petitioner to follow the patent laws and regulations and Office procedures does not constitute unavoidable delay.[11]

In regards to Rayve' suspension from practice before the USPTO, petitioner, petitioner states that Rayve was suspended from practice on October 8, 2008. However, this application was filed on January 4, 2008, eight (8) months prior to Rayve's suspension. As such, the showing of record is that Rayve was not suspended at the time the application was filed.

In summary, the showing of record is that the abandonment resulted from a mistake on the part of petitioner, or petitioner's counsel in filing to provide a correspondence address so that the Notice to File Missing Parts mailed on February 4, 2008 could be mailed to the proper address rather than as a result of unavoidable delay. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). In this regard, petitioner is reminded that the U.S. Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[12]

37 CFR 1.33(a) states, in pertinent part that when filing an

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[7] Id.

[8] California, *supra*.

[9] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[10] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[11] See Note 3, supra.

[12] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing.

A delay resulting from a lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP does not constitute an "unavoidable" delay.[13] As the showing of record does not rise to the level of unavoidable delay, the petition will be dismissed.

In summary, rather than unavoidable delay, the showing of record is that petitioner or counsel for petitioner failed to take adequate precautions to ensure that a correspondence address was filed such that the Notice to File Missing Parts could be mailed to petitioner's address. As petitioner, or counsel therefor, has not shown that the exercise of the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.[14]

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides 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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 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

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[13] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[14] See note 7, supra.

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)).

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).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $810.00 for a small entity.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Receipt of the power of attorney and change of correspondence address is acknowledged.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice to File Missing Parts mailed February 4, 2008
Form PTO/SB/64
Privacy Act Statement

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
12/006,808	01/04/2008	Joseph P. Szczap	074-1-001

CONFIRMATION NO. 7052

N/A
N/A
Alexandria, VA 22313-1450

FORMALITIES LETTER

OC000000028070209

Date Mailed: 02/04/2008

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit **$155** *to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
  Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Additional claim fees of **$1395** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of **$65** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1975** for a small entity
- **$155** Statutory basic filing fee.
- **$65** Surcharge.
- The application search fee has not been paid. Applicant must submit **$255** to complete the search fee.

- The application examination fee has not been paid. Applicant must submit **$105** to complete the examination fee for a small entity in compliance with 37 CFR 1.27.
- Total additional claim fee(s) for this application is **$1395**
  - **$420** for **4** independent claims over 3.
  - **$975** for **39** total claims over 20.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/kalhaidari/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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425 WOODSIDE AVENUE
HINSDALE IL 60521

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Joseph P. Szczap :
Application Number: 12/006808 : DECISION ON PETITION
Filing Date: 01/04/2008 :
Attorney Docket Number: 074-1-001 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on August 18, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

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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)).

This application became abandoned on April 5, 2008, for failure to timely file a proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed on February 4, 2008, which set a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 17, 2008. On June 15, 2009, a petition under 37 CFR 1.137(a) was filed. On July 8, 2009, the petition was dismissed.

The petition lacks the required reply. Specifically, it is noted that additional claim fee(s) are insufficient. Applicant is required to submit an additional $89.00 for claims in excess of twenty. As no deposit account was provided, the amount due could not be charged, and the petition must therefore be dismissed without prejudice to reconsideration pending submission of the proper fees.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Nov-09

GEORGE E. BULLWINKEL
425 WOODSIDE AVENUE
HINSDALE IL 60521

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NOV 24 2009

OFFICE OF PETITIONS

In re Application of :
Joseph P. Szczap :
Application Number: 12/006808 : DECISION ON PETITION
Filing Date: 01/04/2008 :
Attorney Docket Number: 074-1-001 :

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on October 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 5, 2008, for failure to timely file a proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed on February 4, 2008, which set a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 17, 2008. On June 15, 2009, a petition under 37 CFR 1.137(a) was filed. On July 8, 2009, the petition

[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)).

was dismissed. On August 18, 2009, the initial petition under 37 CFR 1.137(b) was filed. On October 21, 2009, the petition was dismissed because the additional claim fees had not been filed.

On October 29, 2009, the subject renewed petition was filed, accompanied by payment of the additional fees required by the Notice mailed on February 4, 2008.

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.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[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).

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.
12/006,867	01/07/2008	Kenichi Yoshii	4041K-000412	7384

7590 10/26/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
FORD, JOHN K

ART UNIT	PAPER NUMBER
3744	

MAIL DATE	DELIVERY MODE
10/26/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Niomi Farmer

Patent Publication Branch
Office of Data Management

Repln. Ref: 10/26/2009 NFARMER 0014510800
DAN:080750 Name/Number:12006867
FC: 9224 $510.00 OP

Adjustment date: 10/26/2009 NFARMER
01/08/2008 KMARZI1 00000090 12006867
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Peter Hatchell	: DECISION ON REQUEST FOR
Patent Number	: 7644561	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/006,958	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF COLLEN A. BEARD, LLC
P. O. BOX 1064
DECATUR, GA 30031-1064

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NOV 10 2008

In re Application of :
LATTOUF, Omar M. et al. :
Application No. 12/006,967 : DECISION ON PETITION
Filed: January 08, 2008 : TO WITHDRAW
Attorney Docket No. **TCT 1000** : 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 19, 2008.

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

A review of the file record indicates that the power of attorney to Law Office of Collen A. Beard, LLC has been revoked by the applicant of the patent application on October 31, 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: **MORRIS MANNING MARTIN LLP**
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

UNITY SEMICONDUCTOR CORPORATION
255 SANTA ANA COURT
SUNNYVALE CA 94085-4511

In re Application of	:	
Robert Norman	:	
Application No. 12/006,970	:	DECISION ON PETITION
Filed: January 8, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P064.08.CIP42+	:	

This is a decision on the petition under 37 CFR 1.78(a), filed May 18, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to non-provisional application No. 11/342,491 set forth in the Application Data Sheet filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add application No. 12/001,952 in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference that application. An incorporation by reference statement added after an application's filing date is not effective because no new

matter can be added to an application after its filing date (See 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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UNITY SEMICONDUCTOR CORPORATION
255 SANTA ANA COURT
SUNNYVALE CA 94085-4511

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OFFICE OF PETITIONS

In re Application of	:	
Robert Norman	:	
Application No. 12/006,970	:	DECISION ON PETITION
Filed: January 8, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P064.08.CIP42+	:	

This is a decision on the renwed petition under 37 CFR 1.78(a), filed September 23, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to non-provisional application No. 11/342,491 set forth in the Application Data Sheet filed with the petition.

The petition is **GRANTED**.

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

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

Applicant filed a petition under 37 CFR 1.78(a)(3) on May 18, 2009. However, the petition was dismissed in a decision mailed on September 14, 2009. The petition was dismissed because the Amendment submitted with the petition improperly incorporated by reference application no. 12/001,952.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2827 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed application No. 11/342,491.

Anthony Knight
Supervisor
Office of Petitions

Enc: corrected Filing Receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/006,970	01/08/2008	2827	640	P064.08	25	2

CONFIRMATION NO. 7946

CORRECTED FILING RECEIPT

42958
UNITY SEMICONDUCTOR CORPORATION
255 SANTA ANA COURT
SUNNYVALE, CA 94085-4511

OC000000038210428

Date Mailed: 10/09/2009

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)

Robert Norman, Pendleton, OR;

Assignment For Published Patent Application

UNITY SEMICONDUCTOR CORPORATION, SUNNYVALE, CA

Power of Attorney: The patent practitioners associated with Customer Number 42958

Domestic Priority data as claimed by applicant

This application is a CIP of 11/342,491 01/30/2006 PAT 7,327,600

Foreign Applications

If Required, Foreign Filing License Granted: 01/30/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/006,970**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

BUFFERING SYSTEMS FOR ACCESSING MULTIPLE LAYERS OF MEMORY IN INTEGRATED CIRCUITS

Preliminary Class

365

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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APR 08 2009

OFFICE OF PETITIONS

THE LAW OFFICES OF STEVEN MCHUGH, LLC
46 WASHINGTON STREET
MIDDLETOWN, CT 06457

In re Application of :
Faquir C. Jain :
Application No. 12/006,974 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. Conn=3 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2009, to revive the above-identified application.

This application became abandoned for failure to file a response to the Notice to File Corrected Application Papers mailed February 22, 2008. A Notice of Abandonment was mailed on January 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of three sheets of replacement drawings containing Figures 8(a1)-8(d); (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FILDES & OUTLAND, P.C.
20916 MACK AVENUE
SUITE 2
GROSSE POINTE WOODS, MI 48236

MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Salvatore C. Scuderi et al :
Application No. 12/006,988 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. 19030.063

This is a decision on the petition, filed June 1, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 27, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3741 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

10 OCT 2008

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Alexandria, VA 22313-1450
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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Application of	:	
Kim et al.	:	
Application No.: 12/006,996	:	
Filing Date: 08 January 2008	:	DECISION
Attorney Docket No.: 5020-1-012	:	
For: Variable Phase Shifter	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 04 August 2008.

BACKGROUND

International application PCT/KR2005/004069 was filed on 30 November 2005, claimed an earliest priority date of 19 July 2005, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 25 January 2007. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 January 2008 (since 19 January 2008 was a Saturday and 21 January 2008 was a holiday). International application PCT/KR2005/004069 became abandoned with regard to the national stage in the United States for failure to timely pay the requisite basic national fee.

DISCUSSION

The instant application was filed under 35 U.S.C. 111(a) on 08 January 2008. The petition seeks "revival of PCT application to reestablish continuity date under 35 USC 120 for the above identified application." Review of the record reveals that international application PCT/KR2005/004069 did not become abandoned with respect to the national stage in the United States until midnight on 22 January 2008; as such, the instant application filed on 08 January 2008 was co-pending with said PCT application from 08 January 2008 to 22 January 2008. Accordingly, the petition for revival for purposes of establishing co-pendency is moot. The $1510.00 petition fee is being refunded to Deposit Account 50-2470, per the authority included in the Response filed on 10 April 2008. Petitioner may wish to review 37 CFR 1.78(a)(3) and 37 CFR 1.55.

DECISION

The petition under 37 CFR 1.137(b) for purposes of establishing co-pendency is **DISMISSED AS MOOT**.

This application is being returned to Technology Center 2817 for further processing.

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

25 SEP 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

In re Application of	:
Kim et al.	:
Application No. 12/006,996	: DECISION ON PETITION
Filed: January 8, 2008	:
Attorney Docket No.: 5020-1-012	: UNDER 37 CFR 1.78(a)(3)
For: Variable Phase Shifter	:

This is a decision on the petitions filed on December 10, 2008 and March 18, 2009, which are being treated together as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application(s) set forth in the amendment filed on March 18, 2009. The petition is **DISMISSED** without prejudice.

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

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

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

The petition fails to satisfy requirement (1). The amendment filed on March 18, 2009 is not in proper format, since it does not show the added text with underlining and does not state that a paragraph is being replaced. *See* 37 CFR 1.121(b)(1).

Regarding requirement (2), the surcharge fee required by 37 CFR 1.17(t) has been submitted.

With respect to requirement (3), the petition contains a statement of unintentional delay. 37 CFR 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement contained in the petition varies from the required language, the statement will be construed as the statement required by 37 CFR 1.78(a)(3). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to George Dombroske at (571) 272-3283.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Yanagihara :
Filed: January 4, 2008 : ON PETITION
Application No. 12/007,024 :
Atty. Dkt. No.: 135165 :

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.53(e)(2) - THE SPECIFICATION WAS COMPLETE AS FILED ON JANUARY 4, 2008," filed March 11, 2008.

The Notice of Omitted Items (Notice) mailed February 19, 2008 indicated that the instant application had been accorded a filing date, but that pages 55, 56, and 62 appeared to have been omitted from the specification as filed.

In response, petitioner argues that the application as deposited included pages 55, 56, and 62, and have presented as proof of mailing and proof of receipt of the pages of specification in question a return postcard date stamped by the Office on January 4, 2008. A copy of pages 55, 56, and 62 of the specification purportedly filed with the application was submitted herewith.

The original of pages 55, 56, and 62 have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of January 4, 2008 with pages 55, 56, and 62 as part of the disclosure of invention is GRANTED.

Since the originals of pages 55, 56, and 62 cannot be located in the Office, the copies submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. A refund will issue in due course.

This application will be returned to the Office of Patent Application Processing for further processing with a filing date of January 4, 2008 with pages 55, 56, and 62 as part of the application.

Best Available Copy

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HOGAN & HARTSON LLP
IP GROUP COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Wade Martin Poteet et al :
Application No. 12/007,030 : DECISION ON PETITION
Filed: January 4, 2008 : TO WITHDRAW
Attorney Docket No. 86581-0004 CON-5 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 2009.

The request is **APPROVED**.

The request was signed by Kirk O. Hahn on behalf of all attorneys of record who are associated with customer No. 24633.

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

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: CDEX, Inc.
4555 S. Palo Verde, Suite 123
Tucson, AZ 85714

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH VA 22315

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Wu et al. : DECISION REFUSING STATUS
Application No. 12/007,049 : UNDER 37 CFR 1.47(a)
Filed: January 4, 2008 :
Attorney Docket No. 5413-0334PUS1 :

This is in response to the petition under 37 CFR 1.47(a), filed April 4, 2008.

The petition is dismissed.

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

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

As to item (1), the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Shyur, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Shyur. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has

access to inventor Shyur's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Although petitioner has provided evidence that application papers were mailed to inventor Shyur's last known address, there is no indication that the inventor received the mailing or continues to receive mail at that address. If all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

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

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

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

As to item (2), the address provided for the non-signing inventor appears to be a business address. The address is the same address provided for the signing inventor. Although the last known mailing address was provided in the petition, 37 CFR 1.63 (c) requires unless such information is provided in an application data sheet, the oath or declaration must identify 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. On renewed petition, the mailing address should be provided in a signed supplemental declaration or in a signed supplemental application data sheet.

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

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8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH VA 22315

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SEP 15 2008

In re Application of :
Jui-Chien Wu and Jui-Jun Shyur : DECISION GRANTING STATUS
Application No. 12/007,049 : UNDER 37 CFR 1.47(a)
Filed: January 4, 2008 :
Attorney Docket No. 5413-0334PUS1 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 21, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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Jui-Chun Shyur
10F-3, No. 65, Sec. 2
Fusing S. Rd., Da-an District
Taipei City 106
Taiwan

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SEP 15 2008

In re Application of
Jui-Chien Wu and Jui-Jun Shyur
Application No. 12/007,049
Filed: January 4, 2008
Attorney Docket No. 5413-0334PUS1

Dear Mr. Shyur:

You are named as a co-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 co-inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215. 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 the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Charlema Grant
Petitions Attorney
Office of Petitions

cc: BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH VA 22315

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Steven W. Weinrieb
LAW OFFICES OF STEVEN W. WEINRIEB
8717 Cold Spring Road
Potomac, MD 20854

Mail Date: 04/26/2010

Applicant	: Daniel D. Bourget	: DECISION ON REQUEST FOR
Patent Number	: 7626145	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/007,070	: 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 **178** 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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G. LINK CO., LTD
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MINOOKA IL 60447

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Hung-Jui Lin	:	
Application No. 12/007,147	:	DECISION ON PETITION
Filed: January 7, 2008	:	
Attorney Docket No: P1190	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 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 January 31, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 1, 2008. A Notice of Abandonment was mailed October 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the $65.00 Surcharge fee, the $165.00 Basic filing fee, the $270.00 Search fee, and the $110.00 Examination fee; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Additionally, petitioner's revocation of power of attorney and change of correspondence address has been accepted.

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

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

Joan Olszewski
Petition Examiner
Office of Petitions

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FOLEY & LARDNER LLP
3000 K STREET, NW
SUITE 500
WASHINGTON, DC 20007

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In re Application of	:	
Norman J. Pressman, et al.	:	DECISION ON PETITION
Application No. 12/007,158	:	TO WITHDRAW
Filed:January 7, 2008	:	FROM RECORD
Attorney Docket No. **029658-0569**	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed December 4, 2009.

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

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1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON, DC 20005

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AUG 10 2009

OFFICE OF PETITIONS

In re Application of :
Kenji Kobayashi et al :
Application No. 12/007,165 : ON PETITION
Filed: January 7, 2008 :
Attorney Docket No. 12143-0012

This is a decision on the petition, filed August 7, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 13, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

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MAR 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Eichhorn et al.	:	DECISION ON PETITION
Application No. 12/007,203	:	TO WITHDRAW
Filed: January 8, 2008	:	FROM RECORD
Attorney Docket No. 31182-00017	:	

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 12, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that The Nath Law Group does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of The Nath Law Group not having power of attorney. See MPEP §§ 601.03 and 405.

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

Currently, there is an outstanding Office action mailed January 20, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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LITMAN LAW OFFICES, LTD.
POST OFFICE BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215-0035

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OFFICE OF PETITIONS

In re Application of	:	
Sam Alper Erdem	:	
Application No. 12/007,210	:	DECISION ON PETITION
Filed: January 8, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 29821.00	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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 3641 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 23 2009

OFFICE OF PETITIONS

THE WEINTRAUB GROUP PLC
28580 ORCHARD LAKE ROAD, SUITE 140
FARMINGTON HILLS, MI 48334

In re Application of :
Soshchin Naum et al :
Application No. 12/007,250 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. XIN-157-A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application (Notice) mailed February 1, 2008, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 2, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 12/007,315 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. :
ELECTROPHOTOGRAPHIC DEVELOPING AGENT

This is in response to the petition under 37 CFR 1.47(a), filed April 4, 2008.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Sang-deok Kim, has expressly refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the application will be forwarded to the Office of Patent Application Processing for pre-examination processing.

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

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
www.uspto.gov

SANG-DEOK KIM
1212-308 JUGONG APT., CHEOLSAN3-DONG
GWANGMYEONG-SI, GYEONGGI-DO
REPUBLIC OF KOREA

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 12/007,315 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. :
ELECTROPHOTOGRAPHIC DEVELOPING AGENT

Dear Mr. Kim:

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAR 0 9 2009

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re application of	:	DECISION ON REQUEST TO
Yasuki Ishiyama et al.	:	PARTICIPATE IN PATENT
Application No. 12/007,340	:	PROSECUTION HIGHWAY
Filed: January 9, 2008	:	PROGRAM AND PETITION
For: VEHICLE HOOD APPARATUS	:	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 March 5, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

In light of the preliminary amendment filed March 5, 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.

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

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

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 03/06/09

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

CST

May 6, 2009

In re application of	:	DECISION ON REQUEST TO
Kyungwon Seo et al	:	PARTICIPATE IN PATENT
Serial No. 12/007,363	:	PROSECUTION HIGHWAY
Filed: January 9, 2008	:	PILOT PROGRAM AND
For: RECHARGEABLE BATTERY	:	PETITION TO MAKE SPECIAL
	:	UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program filed on March 19, 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 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

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.
12/007,392	01/10/2008	Katsuhiro Ohno	01-1628	8839

7590 09/10/2009

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER	
NICKELL, CIMBERLY G	

ART UNIT	PAPER NUMBER
2881	

MAIL DATE	DELIVERY MODE
09/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/11/2009 NFARMER 0200168775

CHECK Refund Total: $510.00

Adjustment date: 09/11/2009 NFARMER
01/11/2008 MAHMED1 00000010 12007392
02 FC:1111 -510.00 OP

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NOV 16 2009

Posz Law Group, PLC
12040 South Lakes Drive
Suite 101
Reston, VA 20191

In re application of Wataru Natsume Application No. 12/007,393 Filed: January 10, 2008 For: TIRE CONDITION NOTIFICATION 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 and the petition under 37 CFR 1.102(d), filed November 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 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 Office action from the JPO application just prior to the "Decision to Grant a Patent" (e.g., the latest "Notification of Reasons for Refusal") for 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 fail to include: Item (6). The Applicant has not submitted a copy of prior art document JP-U-S55-189436 which was cited in the JPO Office action.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn. All replies to a decision to dismiss must be submitted by EFS-Web using the document description "Petition to make special under Patent Prosecution Highway."

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

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 11/15/09

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NOV 2 4 2009

Posz Law Group, PLC
12040 South Lakes Drive
Suite 101
Reston, VA 20191

In re application of Wataru Natsume Application No. 12/007,393 Filed: January 10, 2008 For: TIRE CONDITION NOTIFICATION 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 renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed November 23, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

In light of renewed petition, which now includes a copy of the missing reference cited in the JPO Office action, 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: 11/24/09

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KEUN JUNG KIM / KAY KC KIM
6823 UNION MILL RD
CLIFTON, VA 20124

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JUL 28 2009

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 12/007,395 : ON PETITION
Filed: January 10, 2008 :
Attorney Docket No. None :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2009, to revive the above-identified application.

The petition is **DISMISSED** because it is not signed by all of the applicants. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

Amendments and other papers filed in the application must be signed by:

> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein, Keun Jung Kim was ever given a power of attorney to act on behalf of inventor Kay KC Kim, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)[1], the petition is considered to not contain a proper statement of unintentional delay.

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

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); 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. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

This petition lacks item (3), above. Since all of the applicants for the above identified patent application did not sign the petition in accordance to (§ 1.41(b)), the statement of unintentional delay cannot be accepted.

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

By Internet: EFS-Web[2]

The centralized facsimile number is **(571) 273-8300.**Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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CLIFTON, VA 20124

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OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 12/007,395	:	ON PETITION
Filed: January 10, 2008	:	
Attorney Docket No. None	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 7, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on November 8, 2008. A Notice of Abandonment was mailed March 12, 2009. On April 16, 2009, a petition under 37 CFR 1.137(b) was filed, however, the petition was dismissed in a decision mailed July 28, 2009. In response 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 a continuing application, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted on April 16, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded in due course.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 12/320,857.

Chris Bottorff
Petitions Examiner
Office of Petitions

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ALEXANDRIA VA 22320-4850

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In re Application of	:	
Shinsaku Nakazato, et al.	:	
Application No. 12/007,454	:	DECISION GRANTING PETITION
Filed: January 10, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 119406.02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 1, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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APR 09 2010

OFFICE OF PETITIONS

Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

In re Application of :
Hung Chen Hsu :
Application No.: 12/007,479 : ON PETITION
Filed: January 10, 2008 :
Attorney Docket No: 7004.155 :

This is in response to the petition under 37 CFR 1.137(b) filed February 12, 2010, and in supplement on March 24, 2010.

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

On April 15, 2008, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period, and the application became abandoned on June 16, 2008. A Notice of Abandonment was mailed on December 18, 2008.

The fees paid February 12, 2010, are noted.

The address cited on the petition differs from the address of record. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Foo-Jung Tsai
1F No. 1-1 Wang Tzu Street
Chung-Li City
Taoyuang County
Taiwan ROC

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

Mail Date: 04/22/2010

Applicant	: Ryouji Inagawa	: DECISION ON REQUEST FOR
Patent Number	: 7603978	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/007,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **120** 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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H. JAY SPIEGEL - H. JAY SPIEGEL & ASSOCIATES
P.O. BOX 11
MOUNT VERNON, VA 22121

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MAR 04 2010

In re Application of
William Brine, III, et al.
Application No. 12/007,505
Filed: January 11, 2008
Attorney Docket No. CASCADE-3

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 24, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Eric Darnell. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3765 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

H. JAY SPIEGEL - H. JAY SPIEGEL & ASSOCIATES
P.O. BOX 11
MOUNT VERNON, VA 22121

COPY MAILED

JUL 24 2008

In re Application of Brine III et al. :
Application No. 12/007,507 : Decision on Petition
Filing Date: January 11, 2008 :
Attorney Docket No. CASCADE-4 :

This is a decision in response to the petition filed April 7, 2008, requesting, in effect, that a claim page containing claims 6 to 12 filed on April 7, 2008, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed January 11, 2008.

The Office of Initial Patent Examination mailed a "Notice to File Missing Parts" on February 4, 2008. The Notice indicated page 14 of the specification did not appear to be part of the original application as filed.

In response, the present petition was filed. Petitioner alleges page 14 was filed with the original application. The copy of page 14 submitted by petitioner is a page consisting of claims 6 to 12.

All the evidence present in the file has been carefully considered, but is not persuasive that page 14 of the specification was submitted with the original application.

The postcard receipts:

Petitioner submitted a copy of two stamped postcard receipts. "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." MPEP 503. Unfortunately, the information on the postcard is not properly itemized.

MPEP 503 states (emphasis added),

> It is important that the return postcard itemize all of the components of the application. **If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO)** . . .

> The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. **The postcard should also identify the type of paper being filed**, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted.** If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., **the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).**
>
> **The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard.** For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

The postcards submitted by petitioner indicate a specification, claims and abstract were filed. However, the postcards do not indicate the number of pages of specification or claims filed. Therefore, the postcards do not establish page 14 of the specification was filed January 11, 2008.

The standard business practice of the attorney:

Attorney Speigel states he personally reviewed the papers and verified all the papers were present prior to filing the application.

An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file.[1]

---

[1] Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996) stated,

> Plaintiff thereafter submitted three affidavits, a declaration, and copies of two pages of records from his attorney's law firm, but the Commissioner finally denied plaintiff's petition for a filing date. . . . Nothing submitted by plaintiff to the Patent and Trademark Office is corroborated by anything outside the office of the submitting counsel. . . . The decision was for the Commissioner to make, and I cannot find on the basis of the record presented to me that the Commissioner's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

The probative value of declarations is diminished by the fact that declarations are usually made weeks or months after the actual events recited. In this case, the declaration was made April 3, 2008, which is almost three months after the application was filed. Attorney Speigel's statement does not appear to be based on a personal recollection of viewing page 14 of the specification prior to filing the application. Instead, the statement appears to be based on Speigel's standard operating procedures. In essence, the statement alleges page 14 of the specification drawings must have been part of the application if standard operating procedures were followed. However, using the same logic, the Office can allege the page of claims must not have been filed since standard operating procedure at the Office would have ensured the drawings were placed in the application file.

The official government record, maintained by disinterested USPTO employees as a part of their customary and usual duties, indicates the pages at issue were not filed on January 11, 2008. The statement by Attorney Speigel has been considered. However, petitioner has not established the statement has more probative value than the official government record of what was actually received in the USPTO on January 11, 2008.

Amending the application:

Petitioner assets, "Claims 6-12 do not add any disclosure over and above that which is set forth on pages 1-12 of the application." Petitioner may wish to simply file an amendment to add claims 6 to 12 if the claims do not contain new matter.

If an amendment is not filed to add the missing claims, an amendment should be filed to renumber the claims previously filed.

Conclusion:

Petitioner has not proven page 14 of the specification was filed January 11, 2008. Therefore, the page will not be entered.

The original application papers will include only those application papers present on the date of deposit.

The Office of Patent Application Processing will be informed of the instant decision and will process the application with a filing date of January 11, 2008, using application papers filed on January 11, 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

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H. JAY SPIEGEL - H. JAY SPIEGEL & ASSOCIATES
P.O. BOX 11
MOUNT VERNON, VA 22121

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MAR 04 2010

In re Application of
William Brine, III, et al.
Application No. 12/007,507
Filed: January 11, 2008
Attorney Docket No. CASCADE-4

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 24, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Eric Darnell. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3765 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/007,526	01/11/2008	Jin-Keun Jung	301/093	9564

7590 11/02/2009

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

EXAMINER	
PATEL, NIMESHKUMAR D	

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
11/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
11/02/2009 0030076259

Credit Card Refund Total: $820.00

Am Exp..: XXXXXXXXXX1003

Adjustment date: 11/02/2009 NFARMER
01714/2008 MAHMED1 00000050 12007526
02 FC:1111 -510.00 OP
04 FC:1201 -210.00 OP
05 FC:1202 -100.00 OP

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LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

COPY MAILED
DEC 17 2008

In re Application of :
Yasuhiro Ueki :
Application No. 12/007,543 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. 0102/0287 :

This is a decision on the petition, filed October 27, 2008, entitled "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181 (a) OR, IN THE ALTERNATIVE PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR § 1.137(a), OR UNINTENTIONALLY UNDER 37 CFR § 1.137(b)." The petition is being treated under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

This application was held abandoned for failure to reply to the Notice mailed February 14, 2008, which set a two (2) month period for reply. A Notice of Abandonment was mailed on October 20, 2008.

Petitioner asserts that the Notice dated February 14, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition was decided under 37 CFR 1.181, the petition fees charged under 37 CFR 1.137(a) and 1.137(b) will be credited to deposit account no. 50-0501 as authorized.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of :
Kouji NAKAMURA, et *al.* :
Application No. 12/007,552 : DECISION GRANTING PETITION
Filed: January 11, 2008 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1019952-000229** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2855 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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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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MAR 11 2009

OFFICE OF PETITIONS

In re Application of :
Xiaoming Tao, et. al. :
Application No. 12/007,573 : ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. P70894US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 15, 2009 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 February 6, 2008. A Notice of Abandonment was mailed on October 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , a substitute specification, five sheets of replacement drawings containing Figures 1-12, $165 for the filing fee, a $65 late filing surcharge, $270 for the search fee, $110 for the examination fee, $234 for claims in excess of twenty, and $770 independent claims in excess of three; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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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SEP 30 2008

OFFICE OF PETITIONS

THE HONG KONG POLYTECHNIC UNIVERSITY
SUITE 600, MAILBOX #119
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

In re Application of
CHENG, Ching-Hsiang et al.
Application No. 12/007,610
Filed: January 14, 2008
Attorney Docket No. **IP-447A**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor Ching-Hsiang Cheng 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: **CHING-HSIANG CHENG**
THE HONG KONG POLYTECHNIC UNIVERSITY
HUNG HOM
KOWLOON, HONG KONG

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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BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

MAILED

AUG 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Christina E. Turdo	:	
Application No. 12/007,637	:	DECISION ON PETITION
Filed: January 14, 2008	:	TO WITHDRAW
Attorney Docket No. **4020.001**	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by David S. Taylor on behalf of all attorneys of record who are associated with Customer No. 28410.

All attorneys/agents associated with the Customer No. 28410 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 Christina E. Turdo at the address list listed in the request.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Christina E. Turdo
221 ½ Dempster Street
Evanston, IL 60201

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
12/007,637	01/14/2008	Christina E. Turdo	4020.001

CONFIRMATION NO. 1090

POWER OF ATTORNEY NOTICE

28410
BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

OC000000037587390

Date Mailed: 08/31/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/15/2009.

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

/jlburke/

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

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DEC 16 2009

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of	:	
Gerald A. Cummins, et al.	:	
Application No. 12/007,657	:	DECISION ON PETITION
Filed: October 16, 2009	:	TO WITHDRAW
Attorney Docket No. JCI-467	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2009.

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

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on October 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LATHROP & CLARK LLP**
740 Regent Street, Suite 400
P.O. Box 1507
Madison, WI 53701-1507

UNITED STATES PATENT AND TRADEMARK OFFICE

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LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

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FEB 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Kenneth I. ROBINSON, et al :
Application No. 12/007,679 : DECISION ON PETITION
Filed: January 14, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 29801.00 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 14, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by the applicant Kenneth I.S. Robinson. 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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3/11/2010

Patent No. :7642000
Ser. No. :12/007686
Inventor(s) :Bosong ku et al.
Issued :1/5/10
Title :FUEL CELL ELECTRODE, MEMBRANE-ELECTRODE ASSEMBLY, AND FUEL CELL
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

STAAS & HALSEY LLP
1201 NEW YORK AVENUE N.W.
7TH FLOOR
WASHINGTON, DC 20005

HR

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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Chien-Kuo Liu, et al.	:	
Application No. 12/007,696	:	DECISION ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. 7000.186	:	

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 February 4, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2008. The Notice of Abandonment was mailed October10, 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
Petitions Examiner
Office of Petitions

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REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

Mail Date: 04/21/2010

Applicant	: Sea-Weng Young	: DECISION ON REQUEST FOR
Patent Number	: 7654861	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/007,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/15/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **201** 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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON, DC 20006-5403

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of	:	
John L. JANNING	:	
Application No. 12/007,779	:	DECISION ON PETITION
Filed: January 15, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. J5460.0034/P034	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 15, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a photocopy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

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SEP 02 2008

In re Application of :
Vince Webb :
Application No. 12/007,833 : DECISION ON PETITION
Filed: January 16, 2008 : TO WITHDRAW
Attorney Docket No. 126882 : FROM RECORD
:

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 3, 2008 and June 5, 2008.

The request is **APPROVED**.

A review of the file record indicates that William P. Berridge and Stephen P. Catlin: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 25243 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address has been changed to the inventor and is copied below.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Vince Webb
P.O. Box 116
3153 Galice Road
Merlin, OR 97532

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/007,833	01/16/2008	Vince Webb	126882

CONFIRMATION NO. 2784

POWER OF ATTORNEY NOTICE

25944
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Date Mailed: 09/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2008.

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

/pwallace sr/

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

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VINCE WEBB
P.O. BOX 116
3153 GALICE ROAD
MERLIN OR 97532

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Vincent Lee Webb :
Application No. 12/007,833 : DECISION ON PETITION
Filed: January 16, 2008 :
Attorney Docket No: 126882 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2010 and the Supplemental petition filed February 4, 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 March 31, 2009. 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 June 1, 2009. A Notice of Abandonment was mailed November 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the $65.00 Surcharge fee; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski

Joan Olszewski
Petition Examiner
Office of Petitions

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Marco Dornauer, et al.	:	
Application No. 12/007,864	:	DECISION GRANTING PETITION
Filed: January 16, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 32860-001394/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 20, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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In re Application of	:	
Marco Dornauer, et al.	:	
Application No. 12/007,864	:	DECISION GRANTING PETITION
Filed: January 16, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 32860-001394/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 25, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed, information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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

Mail Date: 04/21/2010

Applicant	: Ferng-Jong Liou	: DECISION ON REQUEST FOR
Patent Number	: 7600744	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/007,883	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Ramu VEERAPPAN, et al
Application No. 12/007,891
Filed: January 16, 2008
Attorney Docket No. 100083-12334US01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that all of the acts noted above have been performed. See attached SB/83 (Withdrawal of Attorney/Agent)

The request cannot be approved because the request does not clearly state which attorneys are to be withdrawn.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. SIDDHARTHA SOM
401 JOHNSTON DRIVE
WATCHUNG, NJ 07069

Attachment: PTO/SB/83 - Request for Withdrawal As Attorney or Agent

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Alexandria, VA 22313-1450
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1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Ramu VEERAPPAN, et al :
Application No. 12/007,891 : DECISION ON PETITION
Filed: January 16, 2008 : TO WITHDRAW
Attorney Docket No. 100083-12434US01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2009.

The request is **APPROVED**.

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

The request was signed by David R. Schaffer on behalf of the attorneys of record associated with Customer No. 00181.

The attorneys of record associated with Customer No. 00181 have been withdrawn.

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

The address of record has been changed and the new address is the address indicated below until otherwise notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SIDDHARTHA SOM
401 JOHNSTON DRIVE
WATCHUNG, NJ 07069

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/007,891	01/16/2008	Ramu Veerappan	100083-12434US01

CONFIRMATION NO. 2918

POWER OF ATTORNEY NOTICE

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

Date Mailed: 05/20/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2009.

- 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.

/dcgoodwyn/

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/007,893	01/16/2008	YONG-SUP CHOI	P58513	2930

7590 11/05/2009

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER	
ALEJANDRO MULERO, LUZ L	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
11/05/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 11/06/2009 NFARMER
01/17/2008 CNGUYEN2 00000065 12007893
02 FC:1111 -510.00 OP

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ARIK W. GOHL
6608 S. MONROE ST.
TACOMA WA 98409

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JAN 16 2009

OFFICE OF PETITIONS

In re Application of :
Arik W. Gohl : DECISION ON PETITION
Application No. 12/007,905 :
Filed: January 17, 2008 :
Title of Invention: **METHOD FOR TREATING MUSCULAR TENDONOUS HYPERTONICITY** :

This is a decision on the petition under 37 CFR 1.137(a), filed December 22, 2008 to revive the above-identified application.

The petition is **DISMISSED**.

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

A Notice to File Missing Parts was mailed February 7, 2008. A response was due not later than April 7, 2008. No response having been filed, a Notice of Abandonment was mailed October 21, 2008.

Petitioner asserts unavoidable delay in responding to the Notice to File Missing Parts because of non-receipt of the Notice.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 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 pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

SHOWING OF UNAVOIDABLE DELAY

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner has not presented any evidence to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), as petition has not proven non-receipt.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a under 37 CFR 1.137(b)[3], which now provides

---

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

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] 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:

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).

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).

It should be noted that if petitioner chooses to file a petition under the unintentional standard the fees due would be $1620.00 for a large entity and $810.00 for a small entity and the fees submitted with the instant petition cannot be applied as petitioner has already received consideration under the unavoidable standard.

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

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

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

Telephone inquiries concerning this 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

---

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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ARIK W. GOHL
6608 S. MONROE ST.
TACOMA WA 98409

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of
Arik W. Gohl
Application No. 12/007,905
Filed: January 17, 2008
Title of Invention: **METHOD FOR TREATING MUSCULAR TENDONOUS HYPERTONICITY**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed February 26, 2009 to revive the above-identified application.

The petition is **GRANTED**.

A Notice to File Missing Parts was mailed February 7, 2008. A response was due not later than April 7, 2008. No response having been filed, a Notice of Abandonment was mailed October 21, 2008. In a petition filed December 22, 2008, under 37 CFR 1.137(a), petitioner asserted unavoidable delay in responding to the Notice to File Missing Parts because of non-receipt of the Notice.

The petition was dismissed in a decision mailed January 16, 2009 because petitioner had not established unavoidable delay. Comes now petitioner with the instant petition to revive, the response having been filed December 22, 2008 with the petition to revive.

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
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED
JUN 29 2010
OFFICE OF PETITIONS

In re Application of
Mari Nozoe
Application No. 12/007,911
Filed: January 17, 2008
Attorney Docket No. NIT-280-04

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed January 19, 2010, to accept an Application Data Sheet (ADS) filed with the instant petition.

The petition is **DISMISSED**.

Petitioner request entry of the ADS submitted on January 19, 2010, to name the inventors inadvertently omitted from a missing page of the Declaration when the above application was filed.

The petition is dismissed because the filing of the above petition under 37 CFR 1.182 is not the proper avenue for correction of inventorship. As the first signed declaration fixed the inventorship, a petition under 37 CFR 1.48 would be the proper avenue to take.

If applicant wishes to file a petition under 37 CFR 1.48, a petition under 37 CFR 1.313(c)(2) should also be filed accompanied by a Request for Continued Examination (RCE) with fee since the issue fee has been paid.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

DEC 11 2009

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

In re application of	:	DECISION ON REQUEST TO
Kenichi Hamaguchi	:	PARTICIPATE IN PATENT
Application No. 12/007,914	:	PROSECUTION HIGHWAY
Filed: January 17, 2008	:	PROGRAM AND PETITION
For: AUTOMOBILE NAVIGATION SYSTEM	:	TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed November 9, 2009, to make the above-identified application special.

The request and petition are **DISMSSED**.

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

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

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

(6) an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent publications.

Specifically, the JPO application cites three (3) prior art literature under the section heading "RECORD OF PRIOR ART LITERATURE SEARCH RESULT." However, neither the IDS filed March 10, 2009 nor the IDS filed July 17, 2008 lists the three prior art literature. Accordingly, the request and petition to make special fails to meet the guidelines of the PPH program.

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

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

12/10/09

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DEC 18 2009

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

In re application of	:	DECISION ON REQUEST TO
Kenichi Hamaguchi	:	PARTICIPATE IN PATENT
Application No. 12/007,914	:	PROSECUTION HIGHWAY
Filed: January 17, 2008	:	PROGRAM AND PETITION
For: AUTOMOBILE NAVIGATION SYSTEM	:	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 December 15, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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 Office action from the JPO application just prior to the "Decision to Grant a Patent" (e.g., the latest "Notification of Reasons for Refusal") from each of the JPO application(s) containing the allowable/patentable claims that are the basis for the request 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).

Applicant has submitted an IDS listing the three prior art references cited in the JPO office action under the section head "RECORD OF PRIOR ART LITERATURE SEARCH RESULT." The renewed request and petition now complies with the above requirements. Accordingly, the above identified application has been accorded "special" status.

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

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 12/16/09

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

8/26/09

In re Application of
ICHIMOTO, KAZUHIRO
Application No. 12/007,938
Filed: Jan. 17, 2008
Attorney Docket No. 12699/90
For: INTERNAL COMBUSTION ENGINE APPARATUS, CONTROL METHOD THEREOF, AND VEHICLE

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 14, 2009, to make the above-identified application special.

The request is **GRANTED**.

Discussion

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

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

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

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

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

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

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

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

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

CONCLUSION

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

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

The petition make special is GRANTED.

/Henry C. Yuen/

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

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAY 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Nam et al.	:	
Application Number: 12/008013	:	DECISION GRANTING PETITION
Filed: 01/08/2008	:	
Attorney Docket Number:	:	
8393P004	:	

This is a decision in reference to the "PETITION PURSUANT TO RULE 1.10(c)," filed on February 27, 2008, requesting that the above-identified application be accorded a filing date of January 8, 2008, rather than the currently-accorded filing date of January 7, 2008.

The petition is **granted**.

Petitioner asserts that the application was deposited in Express Mail Service on January 8, 2008. In support, petitioner has provided a copy of Express Mail Customer Label EV889759560US (the same Express Mail number found on the itemized utility patent application transmittal sheet accompanying the original application papers located in the official file). The "date in" as shown on the Express Mail label is "1-8-08". Additionally, a copy of the USPS Internet Track & Confirm database printout for the above-referenced Express Mail number has been provided, showing that the Express Mail shipment listed above was accepted by the USPS on January 8, 2008.

As such, the showing of record is that the correct date of deposit in Express Mail is January 8, 2008.

In view of the above, the petition is granted.

The application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to January 8, 2008, and for issuance of a corrected Filing Receipt.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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	: Markus Lutz	: DECISION ON REQUEST FOR
Patent Number	: 7579206	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/008,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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ROBERT J JACOBSON PA
650 BRIMHALL STREET SOUTH
ST PAUL, MN 55116-1511

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of :
Louis H. McKenna :
Application No. 12/008,061 : DECISION ON PETITION
Filed: January 7, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. LHM-NAVEWS-01 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 5, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Office of Patent Application Processing for processing. This application will be accorded "special" status once pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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NIXON PEABODY LLP
P.O. BOX 60610
PALO ALTO CA 94306

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JAN 04 2010

In re Application of :
Edward L. EISEN et al. :
Application No. 12/008,069 : DECISION ON PETITION
Filed: January 07, 2008 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **MPP-07-02 (033226-014)** :

This is a decision on the petition, filed May 01, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 07, 2009. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 15, 2010 accompanies this decision on petition.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being forwarded to Technology Center Art Unit 2879 for examination in due course.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
200 PAGE MILL ROAD 2ND FLOOR
PALO ALTO CA 94306-2022

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/008,069	01/07/2008	Edward Lawrence Eisen	MPP-07-02 (033226-014)

CONFIRMATION NO. 8433

46188
Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

NONPUBLICATION RESCISSION LETTER

Date Mailed: 01/04/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 04/15/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tdjackson/

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

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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SEP 11 2009

OFFICE OF PETITIONS

In re Application of :
Stephen Ho :
Application No. 12/008,105 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. 02004/01DIV :

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

The petition is **DISMISSED** because it is not signed. It appears that the petition was intended to be signed by Robert W. Strozier, an attorney registered to practice before the U.S. Patent and Trademark Office.

37 CFR 1.33(b), which states:

Amendments and other papers filed in the application must be signed by:

> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, 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); 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. 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 (3). While it is noted that the certificate of mailing on the petition, contains an S-signature, the petition is missing a signature, including the registration number of Robert W. Strozier, thus leaving the petition unsigned. See 37 CFR 1.4(d)(2)(i). Consequently, the petition is considered as not containing a proper statement of unintentional delay.

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

By Internet: EFS-Web[1]

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

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)

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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NOV 12 2009

OFFICE OF PETITIONS

In re Application of :
Stephen Ho :
Application No. 12/008,105 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. 02004/01DIV :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 11, 2008. A Notice of Abandonment was mailed February 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Although the petition is signed by the attorney of record it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number. However, the accompanying document does include the signature and registration number for Robert W. Strozier, the attorney of record. Therefore, the petition is accepted as being properly signed.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3641 for further examination on the merits.

Chris Bottorff
Petitions Examiner
Office of Petitions

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SETH Z. KALSON
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Narayanan, et al. :
Application No. 12/008,106 : DECISION ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. cit.4287US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 2, 2008 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed February 1, 2008. The Notice to File Missing Parts of Nonprovisional Application set a two month shortened statutory period of time for reply. An untimely reply was submitted July 1, 2008, as advised by the Notice mailed August 25, 2008. Notice of Abandonment was mailed February 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply to the Notice, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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KAUTH, POMEROY, PECK & BAILEY, LLP
2875 MICHELLE DRIVE
SUITE 110
IRVINE CA 92606

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Narayanan, et al :
Application No. 12/008,106 : DECISION ON REQUEST FOR REFUND
Filed: January 8, 2008 :
Attorney Docket No. C9:01700 :

This is a decision on the Request For Refund filed May 24, 2010.

The request is **DISMISSED**.

A Petition for Revival of Application for Patent abandoned unintentionally under the provisions of 37 CFR 1.137(b) and a Response to the Notice to File Missing Parts of Nonprovisional Application mailed February 1, 2008, were received in the USPTO on July 7, 2008.

Applicant now files the above request for refund in the amount of $810.00, and states that, "I decided it was in my client's best interests to file a Petition for Revival Under 37 CFR 1.137(b) on 19 March 2009. The small entity –fee of $810.00 for this Petition was paid for out of my personal funds." Applicant is encouraged to note MPEP 711.03 (c) which states that:

> [T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), **regardless of whether the petition under 37 CFR 1.137 is dismissed or denied;** and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view of the above, the request for refund of the petition fee ($810.00) is dismissed as the fee was not paid "by mistake".

Further, applicant should note that an extension of time fee of $230.00 was submitted on July 7, 2008 instead of a request for a three (3) month extension of time with fee of $525.00. No authorization was provided to charge the fee.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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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	: Reinmar Peppmoller	: DECISION ON REQUEST FOR
Patent Number	: 7652080	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/008,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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MAR 3 1 2008

In re Application of :
HOWELL, Robert L. :
Application No. 12/008,147 : DECISION ON PETITION
Filed: January 08, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **6149P014** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 26, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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

Michelle L. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JACK PAAVILA
43 VICTORIA ST., W.
ALEXANDRIA KOC IA0 CA CANADA

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of :
Denis, Laurent :
Application No. 12/008,203 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. 196-15US :

This is a decision on the petition, filed February 16, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to Notice of Allowance, mailed October 8, 2009, which set a three (3) month statutory period for reply. Accordingly, a reply was due on or before January 8, 2010. A Notice of Abandonment was mailed January 26, 2010.

Petitioner states that a timely reply was submitted via facsimile on December 14, 2009. A credit card form was included for payment of the issue and publication fees. Petitioner states that "payment of the fee was declined by my credit card company because the amount of the fee was over $1000.00 and it was paid to an address outside of applicant's agent's country."

The Issue Fee Transmittal submitted on December 14, 2009 is of record in the instant application. There is also a document from the Office of Initial Processing Division, stating that when the credit card was declined, a call was made to the credit card company, attempting to obtain an approval code, but was further denied. The call to the credit card company was a courtesy done by the USPTO and was not mandatory. As the credit card was declined and no fees were timely received, the instant application properly became abandoned.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Item (1) has already been fulfilled as the issue and publication fees were submitted with the instant 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 Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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NEW YORK NY 10022-6894

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JUL 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Delisle, et al. :
Application No. 12/008,214 : ON PETITION
Filed: January 10, 2008 :
Attorney Docket No. ITW-14985.01 :
For: METHODS FOR SENSING FEATURES ON MOVING FASTENER TAPE DURING AUTOMATED PRODUCTION

This is a decision on the petition, filed January 10, 2008, entitled, "PETITION TO OBTAIN FILING DATE." The petition will be treated under 37 CFR 1.10(e) and 37 CFR 1.183 to waive Rule 10. A $400.00 petition fee will be charged to deposit account no. 50-3195.

The petition under 37 CFR 1.10(e) is **dismissed**.

The constructive petition under 37 CFR 1.183 to waive Rule 10 is **dismissed**.

Any request for reconsideration should be submitted within 2 (two) months of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Petitioners contend that the above-identified application was deposited in an Express Mail drop box on December 26, 2007, but was returned to sender due to insufficient postage. The application was later filed in the Office on January 10, 2008, along with a request that the application be accorded a December 26, 2007 filing date.

Paragraph (e) of 37 CFR 1.10 states that:

Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Director to consider such correspondence as filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Typically, a non-provisional application's filing date is the date upon which a specification, at least one claim, and drawings (if required) are filed in the Office. 37 CFR 1.53(b). This is the default rule. However, Public Law 97-247, 96 Stat. 317 (1982), amended 35 U.S.C. § 21 to permit, but not require, the Office to prescribe that any paper or fee required to be filed in the PTO be considered filed in the PTO on the date on which it was deposited with the USPS. While 35 U.S.C. 21 grants the Director the authority to consider any paper or fee filed in the PTO on the date the paper or fee was deposited with the USPS, the Director has specifically refused to exercise that authority in favor of mail other than Express Mail. Express Mail receives preferential treatment over all other types of mail. A paper filed in compliance with 37 CFR 1.10 will be considered as filed on the date the paper was deposited with the USPS in Express Mail service. Applications filed by types of mail other than Express Mail receive a filing date as of receipt in the Office.

The copy of the original Express Mail envelope referenced in the petition is not present among the petition papers. However, applicants admit that the Express Mail envelope was returned to sender because of insufficient postage. Thus, applicants were not in compliance with 37 CFR 1.10(e), which requires express mail packages to be deposited with sufficient postage. Thus, the application was not properly filed in the Office until January 10, 2008, when it was physically present in the Office.

Petitioners request a December 26, 2007 filing date for the application because applicants will lose their right to file a divisional application if the petition is dismissed. Petitioners are, in effect, requesting waiver of Rule 10.

The petition lacks a showing that justice requires waiver of the rule. For grant of the relief sought in a petition under 37 CFR 1.183, petitioners must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Circumstances resulting from applicants' failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of extraordinary relief. *See In re Tetrafluor, Inc.*, 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); *In re Bird & Son, Inc.* 195 USPQ 586, 588 (Comm'r Pats. 1977); *Huston v. Ladner*, 23 USPQ2d 1910 (Fed. Cir. 1992); *Vincent v. Mossinghoff*, 230 USPQ 621, 625 (D.D.C. 1985). A party's failure to comply with the requirements of Rule 10 is not an extraordinary circumstance that would warrant waiver. *See Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995); *Nitto Chemical Industry Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

The evidence presented indicates that petitioners were aware that the application had to be filed no later than December 26, 2007, in order to obtain the benefits available under 35 U.S.C. 120 based on petitioners' prior filed application. Yet, petitioners waited until the last day provided in the statute for claiming benefits under 35 U.S.C. 120 to complete the application in final form for filing. Those who file at the end of a statutory bar year (35 U.S.C. 102(b)) or a priority year (35 U.S.C. 119) or who delay filing a continuing application until the last possible day for establishing continuity (35 U.S.C. 120 or 121), do not leave any opportunity to overcome any error which might occur in filing the application. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequences of his delay. *See Ex parte Sassin*, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and *compare Ziegler v. Baxter v. Natta*, 159 U.S.P.Q. 378, 379 (Comm'r Pat. 1968) *and Williams v. The Five Platters, Inc.*, 510 F.2d 963, 184 U.S.P.Q. 744 (C.C.P.A. 1975).

Despite the fact that the application was not prepared for filing until the last day for claiming benefits under 35 U.S.C. 120, the application could have been accorded a December 26, 2007 filing date under 37 CFR 1.10, if the Express Mail package had been delivered to a post office service window on December 26, 2007. Although practitioner knew the importance of the filing date, there was a failure on his part to mail the application in a manner necessary to insure the desired filing date. In this regard, the Express Mail envelope was deposited in an Express Mail drop box, rather than deposited at a post office service window on December 26, 2007.

Registered practitioners and the general public were advised at the time 37 CFR 1.10 was originally promulgated of the importance of obtaining a dated receipt immediately upon deposit of a paper or fee in Express Mail service. The PTO also published several notices in the *Official Gazette* (e.g., see 1098 TM Off. Gaz. 428 (January 3, 1989); and 1122 TM Off. Gaz. 455 (January 1, 1991)) reminding the public that where the filing date of an application is critical, the Express Mail package containing the application should be personally delivered to a postal service clerk where an Express Mail receipt could be immediately obtained. It is unfortunate that petitioners' agent chose to deposit a paper as important as a patent application in Express Mail service without immediately obtaining an Express Mail receipt showing the desired date of deposit.

A reasonable person acting with due care and diligence would have filed the application in compliance with 37 CFR 1.10 to ensure its timely filing in the PTO. *Krahn v. Commissioner of Patents and Trademarks*, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *U.S. v. Lockheed Petroleum Services*, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Justice does not require waiving Rule 10.

Accordingly, the petition under 37 CFR 1.183 to waive Rule 10 is **dismissed**.

The application is being forwarded to Technology Center Art Unit 3721 with the presently accorded filing date of January 10, 2008 for examination in due course.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WALTHAM MA 02451-1018

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MAR 10 2010

In re Application of :
Marston, et al. :
Application No. 12/008216 : DECISION
Filed/Deposited: 9 January, 2008 :
Attorney Docket No. MM-122J :

This is a decision on the petition under 37 C.F.R. §1.182, filed on 4 September, 2009, to change the order of the names of the inventors.

The petition is **GRANTED**.

The guidance in the Commentary at MPEP §605.04(f) provides, in pertinent part:

> **§605.04(f)Signature on Joint Applications - Order of Names [R-3]**
>
> 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 C.F.R. §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. (Emphasis supplied.)
>
> ***

The petition herein is signed by Counsel herein Orville R. Cockings (Reg. No. 42,424), who seeks the following order of inventors: Meta Rohde, Ajay Kumar Poddar, Klaus J. Schoepf, Reimund Rebel.

As authorized, the $400.00 fee for the petition under 37 C.F.R. §1.182 has been charged to petitioner's deposit account.

Office records are being corrected to reflect the change in the order of the named inventors. An updated filing receipt is enclosed. (At this writing the change could not be made in Office records; thus the application is being referred to the Office of Patent Application Processing (OPAP) for the changes to be entered into Office records as to the order of inventors and the mailing of an updated filing receipt reflecting those changes consistent with this decision before the application is forwarded for substantive examination in due course.)

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Enc.: An updated filing receipt could not be generated at the time this petition was granted, and will be forwarded by the OPAP.

---

[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 16 2010

In re Application of	:	
Marston, et al.	:	
Application No. 12/008,216	:	DECISION
Filed/Deposited: 9 January, 2008	:	
Attorney Docket No. MM-122J	:	

This is a decision on the petition under 37 C.F.R. §1.182, filed on 4 September, 2009, to change the order of the names of the inventors, and vacates and clarifies a decision previously mailed on 10 March2010, in the following particulars

The decision of 10 March, 2010, is vacated and the petition is **GRANTED** in the following particulars:

The guidance in the Commentary at MPEP §605.04(f) provides, in pertinent part:

> **§605.04(f)Signature on Joint Applications - Order of Names [R-3]**
>
> 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 C.F.R. §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. (Emphasis supplied.)
>
> ***

The petition herein is signed by Counsel herein David W. Poirier (Reg. No. 43,007), who seeks the following order of inventors: Steven Woodard, Peter G. Marston, Ionel Wechsler.

The $400.00 fee for the petition pursuant to 37 C.F.R. §1.182 was paid.

Office records are being corrected to reflect the change in the order of the named inventors. An updated filing receipt is enclosed. (Out of an abundance of caution, to ensure that the correction has been entered into Office records, the application is being referred to the Office of Patent Application Processing (OPAP) for review to ensure changes have been or are entered into Office records as to the order of inventors and the mailing of an updated filing receipt reflecting those changes consistent with this decision before the application is forwarded to Publications Branch in due course.)

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Enc.: An updated filing receipt.

---

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/008,216	01/09/2008	1797	1930	MM-122J	41	8

CONFIRMATION NO. 8573

INTELLECTUAL PROPERTY LAW ATTORNEYS
260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

CORRECTED FILING RECEIPT

Date Mailed: 03/16/2010

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)

Steven Woodard, Cumberland, ME;
Peter G. Marston, Ipswich, MA;
Ionel Wechsler, Framingham, MA;

Power of Attorney:
Joseph Iandiorio--23095
Kirk Teska--36291
David Poirier--43007
Thomas Thompkins Jr--47136
Roy Coleman--48863

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/879,373 01/09/2007
and claims benefit of 60/994,553 09/20/2007

Foreign Applications

If Required, Foreign Filing License Granted: 01/31/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/008,216**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

SYSTEM AND METHOD FOR ENHANCING AN ACTIVATED SLUDGE PROCESS

Preliminary Class

210

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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NELSON MULLINS RILEY & SCARBOROUGH LLP
IP DEPARTMENT
100 NORTH TRYON STREET
42ND FLOOR
CHARLOTTE, NC 28202-4000

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Liittschwager et al.	:	DECISION ON PETITION
Application No. 12/008,288	:	TO WITHDRAW
Filed: January 10, 2008	:	FROM RECORD
Attorney Docket No. 41832/5213	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2009.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney was revoked by the assignee of the patent application on August 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JELD-WEN, INC. - STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

UNITED STATES PATENT AND TRADEMARK OFFICE

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RUTH EURE
4795 EDISON AVENUE
BOULDER CO 80301

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DEC 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter LYNN	:	
Application No. 12/008,306	:	DECISION ON PETITION
Filed: January 10, 2008	:	TO WITHDRAW
Attorney Docket No. LYNN-UNTIL	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 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 Ruth Eure on behalf of the attorneys of record associated with Customer No. 52565.

The attorneys of record associated with Customer No. 52565 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 inventor at the address indicated below until otherwise properly notified by the applicant.

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

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

cc: PETER LYNN
P.O. BOX 1511
FAIRPLAY, CO 80440

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
12/008,306	01/10/2008	Peter Lynn	Lynn-util

CONFIRMATION NO. 9585

POWER OF ATTORNEY NOTICE

52565
RUTH EURE
4795 EDISON AVENUE
BOULDER, CO 80301

Date Mailed: 12/31/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2009.

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

/dcgoodwyn/

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

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PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH GA 30097-1556

Paper No.

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JAN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Carney et al.	:	DECISION ON PETITION
Application Number: 12/008312	:	TO WITHDRAW HOLDING OF
Filing Date: 01/10/2008	:	ABANDONMENT
Attorney Docket Number:	:	
PAT032903-US-DIV	:	

This is a decision on the petition filed under 37 CFR 1.137(b) on November 9, 2009, which, under the circumstances of this case, is treated as a petition to withdraw the holding of abandonment.

The application was held abandoned for failure to timely submit a reply to the non-final Office action mailed on April 22, 2009, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on November 5, 2009.

On November 9, 2009, the subject petition was filed. Petitioner states that a reply was in fact timely filed on July 2, 2009, but was inadvertently miscaptioned with the wrong application number. A copy of petitioner's postcard receipt, showing an "Office-date" of July 7; 2009, was filed with the petition, along with a duplicate copy of the reply.

Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. The reply filed on July 7, 2009 (certificate of mailing date July 2, 2009), contains the proper applicant name, docket number, examiner name, and art unit number. Additionally, a supplemental Information Disclosure Statement filed with the amendment on July 7, 2009 contains the correct application number and filing date.

As the Office was able to match the papers which were submitted with the correct file prior to the subject decision on petition, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

As such, the showing of record is that a reply to the non-final Office action mailed on April 22, 2009 was timely filed. Therefore, there is no abandonment in fact.

The petition is **GRANTED**.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The petition fee will be credited to counsel's deposit account.

The application is referred to Technology Center Art Unit 3736 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DONALD BELLERIVE
10711 DEER RUN FARMS ROAD
FORT MYERS, FL 33966

COPY MAILED

JAN 29 2008

OFFICE OF PETITIONS

In re Application of :
BELLERIVE, Donald :
Application No. 12/008,314 : DECISION ON PETITION
Filed: January 10, 2008 : 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 January 10, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the declaration of inventor Donald Bellerive, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Patent Application Processing at 571-272-4000.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Daube et al. : DECISION ON PETITION
Application No. 12/008,360 :
Filed: January 10, 2008 :
Atty Docket No. 24106 :

This is in response to the PETITION FOR DATE OF DEPOSIT filed May 1, 2008, which is properly considered as a petition under § 1.53(e)(2). Petitioner requests that the Office accord the above-identified application a filing date of January 10, 2008, with figures 1,2 considered part of the original application disclosure. This decision is made in light of the resubmission of the petition on October 24, 2008. This resubmission included submission of the return postcard.

Application papers in the above-identified application were deposited on January 10, 2008. However, on April 16, 2008, the Office mailed applicants a NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had been accorded a filing date; however, figures 1-2 appeared to have been omitted from the application.

In response, applicants filed the instant petition (and petition fee). Applicants petition that the two sheets of drawings including Figures 1-2 were in fact deposited in the U.S. Patent and Trademark Office with the nonprovisional application papers on January 10, 2008. In support thereof, applicants submit *inter alia* a copy of their return postcard from the USPTO. The petition also includes a copy of the drawing sheet containing figures 1 and 2 as originally filed.

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 on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on January 10, 2008, and the items filed therewith were assigned Application No. 12008360; 2) it specifically identifies the items being filed, including "2 sheets drawing" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted including 2 sheets of drawings were filed on January 10, 2008.

The application papers already considered received in the Office on January 10, 2008, were reviewed along with the drawing sheet containing figures 1-2 submitted on petition. These papers together constitute the items described on the postcard receipt as "2 sheets drawing." It is concluded that petitioner has shown that Figures 1-2 were among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded. The refund will be processed by the Office of Finance in due course.

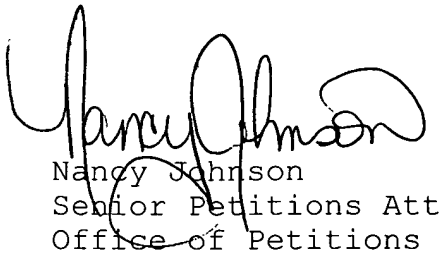
The application is being forwarded to the Office of Patent Application Processing for:

- further processing with a filing date of January 10, 2008 using the application papers received in the Office and presently accorded that date; and figures 1-2 re-supplied on petition filed May 1, 2008; and

- for indication in Office records, as appropriate, that 2 sheets of drawings (including figures 1-4) were present in the application on filing.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FEB 07 2008

OFFICE OF PETITIONS

RUSSO & DUCKWORTH, LLP
9090 IRVINE CENTER DRIVE, 2ND FLOOR
IRVINE, CA 92618

In re Application of :
Edward J. MCCRINK, et al :
Application No. 12/008,367 : DECISION ON PETITION
Filed: January 10, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 816-P-10-USA : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 10 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant Edward John McCrink 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

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.
12/008,415	01/11/2008	Charles Hampton Perry	0646 (RPA1) TBR PERRY	1218

7590 02/26/2008

David D. Winters
Suite 237
2277-C Wilma Rudolph Blvd.
Clarksville, TN 37040-5898

EXAMINER	
ART UNIT	PAPER NUMBER
2834	

MAIL DATE	DELIVERY MODE
02/26/2008	PAPER

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

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

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 D. Winters
Suite 237
2277-C Wilma Rudolph Blvd.
Clarksville TN 37040-5898

FEB 26 2008

In re Application of:	:	
PERRY, Charles H.	:	
Serial No.: 12/008,415	:	DECISION ON PETITION TO
Filed: January 11, 2008	:	MAKE SPECIAL FOR NEW
Title: MACHINE FOR AUGMENTATION, STORAGE,	:	APPLICATION UNDER 37
AND CONSERVATION OF VEHICLE MOTIVE	:	C.F.R. § 1.102 & M.P.E.P. §
ENERGY	:	708.02

This is a decision on the petition filed on January 11, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the application, the petition and the required fees were not filed

electronically using the USPTO's electronic filing system (EFS), or EFS-web. The application was filed in paper on January 11, 2008 as evidenced by the Utility Patent Application Transmittal and the Express Mail Label Number thereon. The petition to make special was also filed in paper as evidenced by its Certificate of Mailing. The required fees were not electronically filed on January 11, 2008, as evidenced by the credit card payment. Further, no statement was made asserting that EFS and EFS-web were not available during the normal business hours.

In addition, the application was not complete under 37 CFR § 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers is evidence that the application was not complete and in condition for examination at the time of filing. In this case, replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1,121(d) and payment of additional claim fees were required in the Notice to File Corrected Application Papers mailed on February 6, 2008.

Furthermore, the petition was not complete. The petition did not include any of the conditions F-I as set forth in the Manual of Patent Examining Procedure (MPEP) 708.02(a).

> REQUIREMENTS FOR PETITIONS TO MAKE SPECIAL UNDER ACCELERATED EXAMINATION
> A new application may be granted accelerated examination status under the following conditions:
> (A) The application must be filed with a petition to make special under the accelerated examination program accompanied by either the fee set forth in 37 CFR 1.17(h) or a statement that the claimed subject matter is directed to environmental quality, the development or conservation of energy resources, or countering terrorism. See 37 CFR 1.102(c)(2). Applicant should use form PTO/SB/28 for filing the petition.
> (B) The application must be a non-reissue utility or design application filed under 35 U.S.C. 111(a).
> (C) The application, petition, and required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-Web. If the USPTO's EFS and EFS-Web are not available to the public during the normal business hours for these systems at the time of filing the application, applicant may file the application, other papers and fees by mail accompanied by a statement that EFS and EFS-Web were not available during the normal business hours, but the final disposition of the application may occur later than twelve months from the filing of the application. See subsection VIII.F. below for more information.
> (D) At the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination. For example, the application must be filed together with the basic filing fee, search fee, examination fee, and application size fee (if applicable), and an executed oath or declaration under 37 CFR 1.63. See subsection VIII.C. below for more information.
> (E) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must also not contain any multiple dependent

claims. By filing a petition to make special under the accelerated examination program the applicant is agreeing not to separately argue the patentability of any dependent claim during any appeal in the application. Specifically, the applicant is agreeing that the dependent claims will be grouped together with and not argued separately from the independent claim from which they depend in any appeal brief filed in the application (37 CFR 41.37(c)(1)(vii)). The petition must include a statement that applicant will agree not to separately argue the patentability of any dependent claim during any appeal in the application. See form PTO/SB/28.

(F) The claims must be directed to a single invention. If the USPTO determines that all the claims presented are not directed to a single invention, applicant must make an election without traverse in a telephonic interview. The petition must include a statement that applicant will agree to make an election without traverse in a telephonic interview. See form PTO/SB/28.

(G) The applicant must be willing to have an interview (including an interview before a first Office action) to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time. The petition must include a statement that applicant will agree to have such an interview when requested by the examiner. See form PTO/SB/28.

(H) At the time of filing, applicant must provide a statement that a preexamination search was conducted, including an identification of the field of search by United States class and subclass and the date of the search, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search.

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

(2) This preexamination search must be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation.

(3) The preexamination search must also encompass the disclosed features that may be claimed. An amendment to the claims (including any new claim) that is not encompassed by the preexamination search or an updated accelerated examination support document (see item I) will be treated as not fully responsive and will not be entered. See subsection IV below for more information.

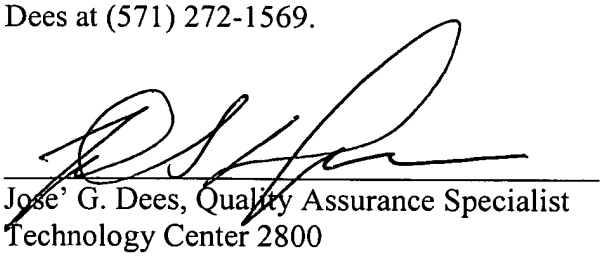
(4) A search report from a foreign patent office will not satisfy this preexamination search requirement unless the search report satisfies the requirements for a preexamination search.

(5) Any statement in support of a petition to make special must be based on a good faith belief that the preexamination search was conducted in compliance with these requirements. See 37 CFR 1.56 and 10.18.

(I) At the time of filing, applicant must provide in support of the petition an accelerated examination support document.
(1) An accelerated examination support document must include an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims.
(2) For each reference cited, the accelerated examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference.
(3) The accelerated examination support document must include a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c).
(4) The accelerated examination support document must include a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application).
(5) The accelerated examination support document must include a showing of where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in the written description of the specification. If applicable, the showing must also identify:
(i) each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, paragraph 6; and
(ii) the structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, paragraph 6. If the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.
(6) The accelerated examination support document must identify any cited references that may be disqualified as prior art under 35 U.S.C. 103(c).

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

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.



Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

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APR 2 2 2008

OFFICE OF PETITIONS

In re Application of :
BENATAR et al. :
Application No. 12/008,437 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. SERVIER 530 :

This is in response to the petition under 37 CFR 1.57(a), filed March 17, 2008, requesting that the above-referenced application be accorded a filing date of January 11, 2008. This petition is being treated pursuant to 37 CFR 1.53(e)(2).[1]

Application papers in the above-identified application were deposited on January 11, 2008. However, on February 4, 2008, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. Additionally, the Notice required applicants to submit a substitute specification, an executed oath or declaration and a surcharge for its late filing.

In response, applicants timely filed this petition. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55.

Applicants' arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method claim. MPEP § 601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

[1] Any request for review of a notification pursuant to § 1.53(e)(1), or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to § 1.53(e) accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition, the filing date of an application in which the applicants were notified of a filing error pursuant to § 1.53(e)(1) will be the date the filing error is corrected.

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in MPEP § 601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicants may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a):

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

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

The petition is **GRANTED** to the extent the instant application will be accorded a filing date of January 11, 2008, with no drawings as part of the original disclosure.

Given the basis for granting this petition, the $400.00 petition fee is being refunded to the Deposit Account.

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

- **correction of the filing date to January 11, 2008;**
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and;**
- **for issuance of a filing receipt.**

Entry of the amendment filed March 17, 2008, will be determined by the examiner.

Telephone inquiries concerning this matter may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

for

Charles A. Pearson
Director
Office of Petitions

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RYAN KROMHOLTZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Debra A. KOLZ	:	
Application No. 12/008,471	:	DECISION ON PETITION
Filed: January 11, 2008	:	TO WITHDRAW
Attorney Docket No. 9512-18010-PROV FOR DIV C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 1, 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 Melissa S. Hockersmith does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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APR 13 2009

OFFICE OF PETITIONS

Paper No.

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

In re Application of	:	
Jia-Ning Xiang et al.	:	DECISION ON
Application No. 12/008,473	:	PETITION PURSUANT TO
Filed: January 10, 2008	:	37 C.F.R. § 1.182
Attorney Docket No. 08981.0005-01000	:	
Title: LEVODOPA PRODRUGS, AND COMPOSITIONS AND USES THEREOF	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer, filed on December 31, 2008.

This petition is **GRANTED**.

On September 3, 2008, Petitioner submitted a terminal disclaimer to overcome a non-statutory double patenting rejection over pending U.S. application numbers 11/634,354 and 12/005,117, in a final Office action mailed June 3, 2008.[1]

With this petition, Petitioner has submitted the petition fee and a request that the terminal disclaimer that is associated with pending U.S. application number 11/634,354 be withdrawn.

The Examiner has reviewed Petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn.

[1] It is noted in passing that this Office action further contained a non-statutory double patenting rejection over pending U.S. application number 12/001,618.

The previously filed terminal disclaimer is hereby **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing. The Examiner will note that a new terminal disclaimer has been submitted concurrently with this petition.

Telephone inquiries *regarding this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100624

DATE : June 24, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7534813

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

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

Application Information

Application Number	12/008,498	Confirmation Number	1285	Filing Date	2008-01-10
Attorney Docket Number (optional)	586C-083-1	Art Unit	3611	Examiner	
First Named Inventor	Christopher S. Crowell				
Title of Invention	Three-Dimensional Forming Display System				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Christopher	S.	Crowell	

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	/Melvin I. Stoltz/	Date (YYYY-MM-DD)	2008-05-21
Name	Melvin I. Stoltz	Registration Number	25934

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Application of
Christopher S. Crowell

Application No. 12008498

Filed: January 10,2008

Attorney Docket No. 586C-083-1

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 21-MAY-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM, WA 98225-2412

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of Hickman et al. :
Application No. 12/008,508 : Decision on Petition
Filing Date: January 11, 2008 :
Attorney Docket No. P215610 :

This is a decision in response to the petition filed May 9, 2008, requesting, in effect, that the drawing sheet containing Figures 39 and 40 filed on May 9, 2008, be entered as part of the original disclosure.

The petition is **granted**.

The application was filed January 11, 2008.

The Office of Initial Patent Examination mailed a "Notice of Missing Parts" on February 4, 2008. The Notice stated Figures 39 and 40 referenced in the specification did not appear to be part of the application as filed.

In response, the present petition was filed. Petitioner alleges Figures 39 and 40 were filed with the original application.

Petitioner has submitted a postcard receipt acknowledging receipt of 24 sheets of drawings on January 11, 2008.[1] The drawings consist of Figures 1 to 38. The drawings in the filed each include a label from "1/24" to "23/24." The evidence clearly indicates the Office received a sheet 24 of the drawings but the sheet was later misplaced by the Office. Therefore, sheet 24 of the drawings, consisting of Figures 39 and 40, filed by petitioner on May 9, 2008, will be entered as part of the original application.

The Notice mailed February 4, 2008, is hereby vacated to the extent the Notice stated Figures 39 and 40 were missing.

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The petition fee of $400 has been credited to petitioner's deposit account.

The Office of Patent Examination Processing will be informed of the instant decision and will process the application with a filing date of January 11, 2008, using the papers filed on January 11, 2008, and the single, drawing sheet filed on May 9, 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

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Schlegel
Application No. 12/008,532
Filed: January 11, 2008
Attorney Docket No. G0762.70006US02
For: DIAGNOSIS AND TREATMENT OF CERVICAL CANCER

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2009, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed July 17, 2008, which set a one month shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 18, 2008. No Notice of Abandonment has been mailed.

Applicant has submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $555.00 extension of time submitted with the petition was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

After the mailing of this decision, the file will be returned to Technology Center AU 1642 for consideration of the election filed on March 2, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 05/10/2010

Applicant	: Vadim V. Ivanov	: DECISION ON REQUEST FOR
Patent Number	: 7633280	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/008,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **146** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Martin Vorbach	: DECISION ON REQUEST FOR
Patent Number	: 7650448	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/008,543	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **80** 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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Richard L. Mayer, Esq.
Kenyon & Kenyon
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Erwin Lock	: DECISION ON REQUEST FOR
Patent Number	: 7593801	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/008,579	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2008	: 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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MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Richard W. Schanz :
Application No. 12/008,612 : DECISION ON PETITION
Filed: January 11, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 12/008612 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 11, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement 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 3617 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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K. BRIAN MATLOCK
MATLOCK LAW GROUP, PC
1485 TREAT BLVD., SUITE 200
WALNUT CREEK, CA 94597

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of :
HOLTZ-DAVIS, et al. :
Application No. 12/008,614 :
Filed: January 10, 2008 :
Attorney Docket No. **014HF-001** :

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 10, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the statement of attorney K. Brian Matlock (registration number 52,005), attesting to the age of inventor Frankie Holtz-Davis. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Patent Application Processing at 571-272-4000.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

N UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT, WILL & EMERY LLP
Attn: IP Department
227 WEST MONROE STREET
SUITE 4400
CHICAGO IL 60606-5096

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Guy Richards, et al.	:	
Application No. 12/008,619	:	DECISION GRANTING PETITION
Filed: January 11, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 052390-0074	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 26, 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 May 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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ALVIN S. BLUM
2350 DELMAR PLACE
FORT LAUDERDALE, FL 33301

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Alvin S. Blum :
Application No. 12/008,620 : DECISION ON PETITION
Filed: January 11, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. B1088 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 11, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being referred to the Office of Patent Application Processing for pre-examination processing. This application will be accorded "special" once pre-examination processing is complete.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100222

DATE : February 22, 2010

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: 12/008,649

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Anne Marie Grunberg/
Supervisory Patent Examiner.Art Unit 1661

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EDWARD E. ROBERTS
P.O. BOX 3206
DANA POINT, CA 92629

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FEB 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Dieter R. SAUER :
Application No. 12/008,656 : DECISION ON PETITION
Filed: January 14, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 07DS-01 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 14 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's drivers 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

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RONALD S. LOMBARD, ESQUIRE
4430 TWIN OAKS DRIVE
MURRYSVILLE PA 15668

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OFFICE OF PETITIONS

In re Application of
Faigle, et al.
Application No. 12/008,765
Filed: January 14, 2008
Attorney Docket No. RB 132
For: METHOD FOR FINE-MACHINING CRANKSHAFTS AND MACHINING CENTER THEREFOR

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2009 (certificate of mailing date July 1, 2009), to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed September 30, 2008, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on December 1, 2008. A Notice of Abandonment was mailed on May 21, 2009.

Applicants have submitted a proper reply to the September 30, 2008 Notice in the form of replacement drawings, an acceptable statement of the unintentional nature of the delay in responding to the September 30, 2008 Notice, and the $1,620.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/008,778	01/14/2008	Peter I. Lobo		1929

EXAMINER

7590 02/27/2008

Peter I Lobo
348 Keywest Dr.
Charlottesville, VA 22911

ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 06/02/2008 KKING1
01/15/2008 EHAILE1 00000039 12008778
02 FC:2111 -255.00 OP
04 FC:2202 -200.00 OP

Refund Ref:
06/02/2008 KKING1 0000162959

CHECK Refund Total: $455.00

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Judy L. Mahoney
811 Red Barn Rd
Bethel Park PA 15102

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of
Mahoney
Application No. 12/008,825
Filed: January 15, 2008
Attorney Docket No. N/A
For: GROCERY STORE BASED WEIGHT LOSS PLAN

DECISION ON PETITION

In re Application of
Mahoney
Application No. 12/011,431
Deposited: January 14, 2008
Attorney Docket No. NA
For: N/A

This is a decision on the correspondence filed December 4, 2008, requesting merger of the above-identified application files and withdrawal of the holding of abandonment, presumably in Application No. 12/008,825. The petition for merger will be treated under 37 CFR 1.182. The petition for withdrawal of the holding of abandonment will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.182 to merge Application No. 12/008,825 and Application No. 12/011,431 is **DISMISSED**.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment in Application No. 12/009,825 is **HELD IN ABEYANCE**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." The petition for reconsideration should be directed to Application No. 12/008,825. Once the reconsideration petition under 37 CFR 1.182 is filed, the petition under 37 CFR 1.181 will be addressed. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The petition under 37 CFR 1.182 is dismissed because petitioner has not paid the required Rule 182 petition fee of $400.00.

A decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 is held in abeyance until a petition for reconsideration under 37 CFR 1.182 and the required $400.00 petition fee is filed.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Judy L. Mahoney
811 Red Barn Rd
Bethel Park PA 15102

In re Application of
Mahoney
Application No. 12/008,825
Filed: January 15, 2008
Attorney Docket No. N/A
For: GROCERY STORE BASED WEIGHT LOSS PLAN

: DECISION VACATING PREVIOUS
: DECISION ON PETITION AND
: GRANTING PETITION TO MERGE
: AND PETITION TO WITHDRAW
: HOLDING OF ABANDONMENT

In re Application of
Mahoney
Application No. 12/011,431
Deposited: January 14, 2008
Attorney Docket No. NA
For: N/A

This is a decision on the correspondence filed December 4, 2008, requesting merger of the above-identified application files and withdrawal of the holding of abandonment, presumably in Application No. 12/008,825. The petition for merger will be treated under 37 CFR 1.182. The petition for withdrawal of the holding of abandonment will be treated under 37 CFR 1.181. The previous decision on petition, mailed January 5, 2009 is hereby vacated. In addition, the letter dated May 6, 2009 is vacated.

The petition under 37 CFR 1.182 to merge Application No. 12/008,825 and Application No. 12/011,431 is **GRANTED**.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment in Application No. 12/009,825 is **GRANTED**.

The application papers deposited on January 15, 2008 have been used to process Application No. 12/008,825 with a filing date of January 15, 2008. The papers present in the file of Application No. 12,011,431, deposited on January 14, 2008, will be merged into the file of Application No. 12/008,825. The fees paid in application No. 12/011,431 have been transferred to Application No. 12/008,825.

Application No. 12/011,431 will no longer be an active application number. All future correspondence concerning this application should be directed Application No. 12/008,825.

The Office mailed a Notice to File Missing Parts (Notice) on February 6, 2008 in Application No. 12/008,825. Applicant had a two month extendable period from the mail date of the Notice to reply. Applicant did not respond timely. As Application No. 12/008,825 and Application No. 12/011,431 are being merged, the January 14, 2008 payments are considered to be filed in Application No. 12/008,825. Therefore, the petition to withdraw the holding of abandonment is **granted**.

However, for future reference, one cannot simply ignore a notice. Some sort of reply must be filed, even if applicant believes the notice to be totally deficient/unmerited, or the application will become abandoned for failure to timely reply to the notice.

The above-identified application files are being referred to the Office of Patent Application Processing where Application No. 12/011,431 will be merged into Application No. 12/008,825. Thereafter, Application No. 12/008,825 will undergo pre-examination processing. As stated above, all communications regarding this application should be directed to Application No. 12/008,825.

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

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LOVELAND OH 45140

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OFFICE OF PETITIONS

In re Application of	:	
Smith, et al.	:	
Application No. 12/008,831	:	DECISION ACCORDING STATUS
Filed: January 14, 2008	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. IPK-029009-N1	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 4, 2008.

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

On petition, petitioner has established that inventor Schaffer has refused to sign the application papers. Specifically, petitioner has established that Rule 47 status was accorded in the parent application by including a copy of the decision granting such status in the parent application.[1]

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in MPEP 201.06(c)(VI), the Office will not forward notice of this application's filing to the non-signing inventor at his last known address, as such notice was already provided in the parent application. Nor will notice of the filing of this application be published in the Official Gazette.

---

[1] See MPEP 201.06(c)(VI).

The petition fee of $200 has been charged to Deposit Account No. 09-0525, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Smith, et al.	:	
Application No. 12/008,832	:	DECISION ACCORDING STATUS
Filed: January 14, 2008	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. IPK-029009-N1	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 4, 2008.

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

On petition, petitioner has established that inventor Schaffer has refused to sign the application papers. Specifically, petitioner has established that Rule 47 status was accorded in the parent application by including a copy of the decision granting such status in the parent application.[1]

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in MPEP 201.06(c)(VI), the Office will not forward notice of this application's filing to the non-signing inventor at his last known address, as such notice was already provided in the parent application. Nor will notice of the filing of this application be published in the Official Gazette.

---

[1] See MPEP 201.06(c)(VI).

The petition fee of $200 has been charged to Deposit Account No. 09-0525, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/008,833	01/14/2008	Carsten Gitt	MB 677	1756

7590 08/20/2009

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

EXAMINER
PANG, ROGER L

ART UNIT	PAPER NUMBER
3655	

MAIL DATE	DELIVERY MODE
08/20/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment Date: 08/21/2009 BPOWELL
08/20/2008 AARMADI 00000014 500465 12008833
02 PC:1111 510.00 CR

Adjustment date: 08/21/2009 BPOWELL
08/20/2008 AARMADI 00000014 500465 12008833
02 PC:1111 510.00 CR

FORM PET651G (Rev. 08/07)

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NORMAN E. LEHRER, P.C.
1205 NORTH KINGS HIGHWAY
CHERRY HILL NJ 08034

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
George C. Demirjian	:	
Application No. 12/008,925	:	DECISION ON PETITION
Filed: January 15, 2008	:	TO WITHDRAW
Attorney Docket No. 6478	:	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 22, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Vanitha M. Elgart, former attorney/agent associated with customer number 34678. Vanitha M. Elgart has been withdrawn. All other attorneys/agents will remain of record.

The correspondence address will remain the same until further notified by applicant.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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P.O. BOX 4277
SEATTLE WA 98104

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APR 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph Donnelly	:	
Application No. 12/008,991	:	DECISION ON PETITION
Filed: January 15, 2008	:	
Attorney Docket No. 35043.001C2	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 5, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 6, 2008. The Notice of Abandonment was mailed October 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath, replacement drawings, statutory basic filing fee of $165, search fee of $270, examination fee of $110, and the surcharge of $65, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Examination Processing for further processing.

Chris Bottorff
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
James Crofoot :
Application No. 12/008,995 : DECISION ON PETITION
Filed: January 14, 2008 :
Attorney Docket No. 2890-3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 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 February 7, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 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 a reply, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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

This application is being referred back to the Office of Patent Application Papers for further processing of the reply received January 29, 2009.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH G. NAUMAN
696 RENOLDA WOODS CT.
DAYTON OH 45429-3415

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Timothy P. Blaeser et al.
Application No. 12/009,061
Filed: January 16, 2008
Attorney Docket No: **BLZ 004 P2**

This is a decision on the correspondence filed November 17, 2008 and supplemented December 4, 2008, which is being treated as petition under 37 CFR 1.181 to withdraw the holding of abandonment in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned April 14, 2008 for failure to timely reply to the Notice to File Corrected Application Papers mailed February 11, 2008 and which set a two month period for reply. Accordingly, a Notice of Abandonment was mailed October 21, 2008.

The file record discloses that the Notice was mailed to what was believed to be the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that it was not received.

Unfortunately, the requirement under 37 CFR 1.181, is that petitioner review the docket records and submit copies of the actual docket records or file jacket to show non-receipt. That requirement has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication and therefore could not respond timely. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides 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).

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).

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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

(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 pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Timothy P. Blaeser et al.
Application No. 12/009,061
Filed: January 16, 2008
Attorney Docket No: **BLZ 004 P2**

ON PETITION

This is a decision on the correspondence filed March 10, 2008, which is being treated as a renewed petition under 37 CFR 1.181, to withdraw the holding of abandonment in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned April 14, 2008 for failure to timely reply to the Notice to File Corrected Application Papers mailed February 11, 2008 and which set a two month period for reply. Accordingly, a Notice of Abandonment was mailed October 21, 2008. A petition filed November 17, 2008 was dismissed in a decision mailed February 10, 2009 because while petitioner contends that the April 14, 2008 Notice was not received, no other corroborating evidence to prove non-receipt was presented.

Evidence of non-receipt was not provided with the petition filed November 17, 2008. In accordance with the requirements of 37 CFR 1.181 for proving non-receipt, the decision mailed February 10, 2009 required copies of the "DOCKET RECORDS" Petitioner is referred to M.P.E.P. 711.03(c) for an understanding of the showing required for establishing non-receipt of an office communication and what is meant by "Docket".[1]

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[1]In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the

Comes now petitioner with the instant renewed petition and further arguments regarding the non-receipt.

With the instant petition, petitioner acknowledges that the decision on petition required copies of the actual docket records or file jacket to show non-receipt however, no such copies were included with the instant renewed petition.

As was indicated in the decision mailed February 10, 2009, which noted that "Unfortunately, the requirement under 37 CFR 1.181, is that petitioner review the docket records and submit copies of the actual docket records or file jacket to show non-receipt. That requirement has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication and therefore could not respond timely. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record." Other than the statements regarding non-receipt, no other corroborating evidence to prove non-receipt has been presented with the instant renewed petition.

---

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

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

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

In view thereof, the holding of abandonment still cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[2] or 37 CFR 1.137(b),[3] which now provides 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).

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).

---

[2]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

(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 pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APR 23 2009

OFFICE OF PETITIONS

In re Application of
Timothy P. Blaeser et al.
Application No. 12/009,061
Filed: January 16, 2008
Attorney Docket No: **BLZ 004 P2**

ON PETITION

This is a decision on the correspondence filed April 3, 2009, which is being treated as a second renewed petition under 37 CFR 1.181, to withdraw the holding of abandonment in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned April 14, 2008 for failure to timely reply to the Notice to File Corrected Application Papers mailed February 11, 2008 and which set a two month period for reply. Accordingly, a Notice of Abandonment was mailed October 21, 2008. A petition filed November 17, 2008 was dismissed in a decision mailed February 10, 2009 because while petitioner contends that the February 11, 2008 Notice was not received, no other corroborating evidence to prove non-receipt was presented. A renewed petition filed March 10, 2009 included additional arguments regarding the non-receipt but was dismissed in a decision mailed March 24, 2009 because the petition also failed to include evidence of non-receipt in accordance with the requirements of 37 CFR 1.181.

Comes now petitioner with copies of the docket and file jacket, wherein receipt of the Notice to File Corrected Application Papers mailed February 11, 2008 would have been entered and filed, had it been received. To show that the Notice mailed February 11, 2008 was not received, petitioner also explains the docketing system used and further that after searching the file wrapper it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket and file jacket for the instant matter show no entry indicating receipt of the Notice to File Corrected Application Papers mailed February 11, 2008, it is apparent that it was not received.

The evidence submitted corroborates non-receipt of the Notice to File Corrected Application Papers.

In view of the facts set forth in the petition, it is concluded that the Notice to File Corrected Application Papers was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

A response to the Notice to File Corrected Application Papers mailed February 11, 2008 was filed December 4, 2008. This matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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P. O. BOX 128
NORTHBROOK IL 60065-0128

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Ansari, Aseem Z. :
Application No. 12/009,078 : ON PETITION
Filed: January 16, 2008 :
Attorney Docket No. 20423 ANS-cognate :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 12, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed February 28, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 29, 2008. A Notice of Abandonment was mailed on November 10, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (1). The Office acknowledges receipt of the Replacement Drawings, the Sequence Listing and an Amendment. However, on February 18, 2009, the Sequence Listing could not be accepted due to errors. A copy of the Validation Report is enclosed. Any questions directly concerning this should be directed to the telephone number listed thereon.

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 $865.00 extension of time fee submitted with the petition on January 12, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Sequence Listing Validation Report

==========

Sequence Listing could not be accepted due to errors.

See attached Validation Report.

If you need help call the Patent Electronic Business Center at (866) 217-9197 (toll free).

Reviewer: Anne Corrigan

Timestamp: [year=2009; month=2; day=18; hr=8; min=49; sec=13; ms=667;]

==========

****

Reviewer Comments:

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32

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****

Validated By CRFValidator v 1.0.3

Application No: 12009078 Version No: 1.0

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Output Set:

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Finished: 2009-02-14 06:12:47.966
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Total Warnings: 2
Total Errors: 4
No. of SeqIDs Defined: 6
Actual SeqID Count: 6

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<151> 2007-01-16

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
Ansari, Aseem Z. :
Application No. 12/009,078 : ON PETITION
Filed: January 16, 2008 :
Attorney Docket No. 20423 ANS-Cognate :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b). The sequence listing provided with the renewed petition was accepted on September 18, 2009.

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

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing. Thereafter, the application will be referred to Technology Center AU 1645 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605-1601

COPY MAILED
JAN 22 2010

Applicant: George Percy McGown
Appl. No.: 12/009,083
Filing Date: January 16, 2008
Title: INSTRUMENT AND METHOD FOR TREATMENT OF HEMORRHOIDS
Attorney Docket: M51-002
Pub. No.: US 2009/0182350 A1
Pub. Date: July 16, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 11, 2009 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein the title of the invention "INSTRUMENT AND METHOD FOR TREATMENT OF HEMORRHOIDS" is misprinted as "INSTRUCMENT AND METHOD FOR TREATMENT OF HEMORRHOIDS".

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

The error on the front page of the publication wherein the title of the invention misprints "INSTRUMENT" as "INSTRUCMENT" may be an Office error, but it is a not material Office error under 37 CFR 1.221. The error does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or 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 provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

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

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

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

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

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SUITE 200
PALM BEACH GARDENS FL 33410

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JUN 15 2009

OFFICE OF PETITIONS

Applicant: Flaherty
Application No. 12/009,092
Filed: January 16, 2008
For: Solar Heat Collecting Apparatus
Attorney Docket No.: N1329

: Decision on
: Petition

This is a decision in response to the papers received on March 7, 2008, and June 3, 2009, which are being treated as a petition under 37 CFR 1.181 for withdrawing the application from the publication cycle.

Petitioner asserts that the application was improperly scheduled for publication by the Office. Petitioner asserts that the application was filed with a nonpublication request as is his practice. Petitioner states that the transmittal letter indicates that the application was filed with a nonpublication request. Petitioner asserts that the application was filed with a nonpublication request and receipt by the PTO was acknowledged.

The petition is DISMISSED.

On January 16, 2008, applicant filed the above-identified application.

On February 14, 2008, the Office of Patent Application Processing (OPAP) mailed a "Notice of New or Revised Projected Publication Date", stating that the application had cleared Licensing and Review and had a projected publication date of July 16, 2009.

On March 7, 2008, applicant responded to the Notice by furnishing a copy of the nonpublication request along with the instant petition.

On January 29, 2009, OPAP mailed a "Filing Receipt", stating that the projected publication date is July 16, 2009 and that a nonpublication request had not been received by the USPTO

On June 3, 2009, petitioner filed the instant petition requesting that the application not be published. The petition included copies of a nonpublication request and an express mail label.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested

nonpublication with the required certification. The statute also permits the Office to publish applications filed before November 29, 2000, when applicant requests publication of such an application.

As set forth in Section 503 of the Manual of Patent Examining Procedure, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items 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. The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, applicant identifier, application number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application), etc.
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard.

Upon review of the record, 30 pages of specification including claims and the abstract, and 11 pages of drawings are located among the application papers. However, the Nonpublication Request form has not been located in the official file. The image file wrapper and the paper file in the warehouse have been reviewed and the Nonpublication Request form is not in the file.

An itemized postcard receipt itemizing the total number of pages of specification, including claims and the abstract and Nonpublication Request, as set forth in Section 503 of the Manual of Patent Examining Procedure (MPEP) was not included with the petition.

With respect to the Nonpublication Request, the Office records do not include a copy of the Nonpublication Request submitted on the filing date of the application. The Office has no statutory authority to accept a nonpublication request that was not filed on the filing date of the application. Because the Nonpublication request could not be found in the file and petitioner failed to provide an itemized postcard receipt in compliance with MPEP section 503, there is no evidence that the Nonpublication Request was received by the Office. Petitioner's argument that it is his practice to file applications with nonpublication requests is not persuasive. The instant

application was filed after November 29, 2000, and the Office records do not include a copy of the Nonpublication Request. While the transmittal letter indicates that Applicant did not want the application to be published or intend to file foreign patent applications, the transmittal letter shows an intent to file something; however it does not include the proper certification, nor does it even state a non-publication request is included.

The Office has no statutory authority to accept a nonpublication request that was not filed on the filing date of the application. The application is scheduled for publication on July 16, 2009.

Telephone inquiries regarding this communication should be directed 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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James Lee
VORTRAN Medical Technology 1, Inc.
21 Golden Land Court
Sacramento CA 95834

COPY MAILED
DEC 19 2008

In re Application of :
Saied, et al. :
Application No. 12/009,104 : ON PETITION
Filed: January 15, 2008 :
Attorney Docket No. PB07-08 :
For: PRESSURE MEASURING
MANOMETER WITH ALIGNMENT SPUR

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2008 (certificate of mailing date October 30, 2008), to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed February 11, 2008, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 12, 2008. A Notice of Abandonment was mailed on October 21, 2008.

Applicants have submitted a proper reply to the February 11, 2008 Notice in the form of replacement Figure 16 and a replacement abstract, an acceptable statement of the unintentional nature of the delay in responding to the February 11, 2008 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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LIU & LIU
444 S. FLOWER STREET/SUITE 1750
LOS ANGELES CA 90071

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Yang, et al. :
Application No. 12/009,145 : DECISION
Filed: 15 January, 2008 :
Attorney Docket No. 1153/270 :

This is a decision on the petition, filed on 21 November, 2008, for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a); the petition was supplemented on 16 December, 2008, to be 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, with an additional supplement filed of record thereafter.

The petition under 37 C.F.R. §1.181 is **GRANTED**; in light of the supplemental showing the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

As to Allegation of
Unavoidable Delay

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

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees and surcharge) mailed on 8 February, 2008, with reply due absent extension of time on or before 8 April, 2008.

The application went abandoned after midnight 8 April, 2008.

The Office mailed the Notice of Abandonment on 20 October, 2008.

On 21 November, 2008, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(a) averring unavoidable delay but also suggesting non-receipt (properly considered under 37 C.F.R. §1.181), and submitting a reply in the form of fees and surcharge due; thereafter, Petitioner submitted on 16 December, 2008, a supplement pursuant to 37 C.F.R. §1.181—supplemented once again on 24 February, 2009—and made therein 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 supported the statements with the docket record/file jacket cover and due date calendar/docket as guided by the Commentary at MPEP §711.03(c)(I).

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

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

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]

---

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

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

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule consistent with the guidance set forth in the Commentary at MPEP §711.03(c)(I).

As to Allegations of
Unavoidable Delay

The requirements pursuant to 37 C.F.R. §1.137(a) are petition, fee, proper reply and showing of unavoidable delay. It appears that the petition pursuant to 37 C.F.R. §1.137(a) is moot.

---

[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.))

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

CONCLUSION

Accordingly, The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 20 October, 2008, Notice of Abandonment is **vacated**. The petition under 37 C.F.R. §1.137(a) is **dismissed as moot**.

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

Mail Date: 04/20/2010

Applicant	: Herman P. Benecke	: DECISION ON REQUEST FOR
Patent Number	: 7638592	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/009,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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CISLO & THOMAS LLP
1333 2ND STREET
SUITE #500
SANTA MONICA CA 90401-4110

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of :
Andrew Schwartz :
Application No. 12/009,205 : DECISION GRANTING PETITION
Filed: January 16, 2008 :
Attorney Docket No.: 08-20525 :

This is a decision on the petition filed April 7, 2008, in response to the "Notice of Omitted Items" mailed February 11, 2008, which is treated under 37 CFR 1.182.

The instant application was filed January 16, 2008 and a filing date was accorded. However, the Notice indicated that Page 26 of the Specification and Figures 1-7 as described in the Specification, appeared to have been omitted.

Petitioner asserts that Page 26 of the Specification and Figures 1-7 were among the papers filed on January 16, 2008, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included a 26 page Specification and eight drawing pages. Only twenty five pages making up the Specification and seven drawing figures is of record, and while the postcard did not specifically itemize the number of drawing Figures, it is obvious that the Specification consisted of 26 pages and that Figures 1-7 were on sheets 1-7. Additionally, the postcard receipt lacks any notation of non-receipt of any items listed. In view thereof, the petition is **GRANTED.**

Given the basis for granting the petition, no petition fee is due. Petitioner's deposit account no. 03-2030 will be credited in the amount of $400.00.

This matter will be forwarded to the Office of Patent Application Processing (OPAP) for further processing, using the application papers received in the Office on January 16, 2008 and Page 26 of the Specification as well as Figures 1-7 submitted on petition April 7, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Exxon Mobil Research and Engineering Company
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Annandale NJ 08801-0900

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JUL 0 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Kelli H. Wright et al.	:	
Application No. 12/009,234	:	DECISION ON PETITION
Filed: January 17, 2008	:	
Attorney Docket No. GPK-0802	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 31, 2009.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received April 23, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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BENJAMIN BLUMENTHAL
AVENUE VERT BOCAGE, 11
WATERLOO 1410 BE **BELGIUM**

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of :
Benjamin Elias Blumenthal :
Application No. 12/009,273 : ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. BB-IR100 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 30, 2009, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 filed on April 20, 2009, to expedite the processing of the present petition filed on March 30, 2009.

The petition under 1.182 is **GRANTED**.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed November 20, 2008. A Notice of Abandonment was mailed on March 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $755 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

RUSSO & DUCKWORTH, LLP
9090 IRVINE CENTER DRIVE, 2ND FLOOR
IRVINE, CA 92618

In re Application of	:	
Edward J. MCCRINK, et al	:	
Application No. 12/009,279	:	DECISION ON PETITION
Filed: January 17, 2008	:	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 January 17 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant Edward John McCrink drivers 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

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BRUCE L. ADAMS, ESQ.
ADAMS & WILKS
SUITE 1231
17 BATTERY PLACE
NEW YORK NY 10004

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JUN 05 2009

OFFICE OF PETITIONS

In re Application of :
Kawashima :
Application No. 12/009,284 : DECISION ON PETITION
Filed: January 17, 2008 :
Attorney Docket No. S002-5306 (CON2) :

This is a decision on the petition, filed May 12, 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 **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Corrected Application Papers, mailed July 30, 2008, which set a two (2) month period for reply. A Notice of Abandonment was mailed on April 2, 2009.

Petitioner asserts that the Notice dated July 30, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice 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 Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Office of Patent Application Processing for re-mailing the Notice of July 30, 2008. The period for reply will run from the mailing date of the Office action.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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LaTheasa Vestine Stevens
14505 Rumfeldt
Austin TX 78725

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OFFICE OF PETITIONS

In re Application of
LaTheasa Vestine Stevens
Application No.: 12/009287
Filing or 371(c) Date: 03/11/2008
Title of Invention:
VESTINE MOTIF UNIQUE BOOKMARKS

DECISION ON
PETITION

This is a decision in response to the correspondence filed December 23, 2008. The correspondence is properly treated as a petition under 37 CFR 1.181 (no fee).

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. (Extensions of time require a fee). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," and should only address the deficiencies noted below. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed April 1, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 2, 2008. A Notice of Abandonment was mailed December 4, 2008.

Petition under 37 CFR 1.181

Applicant files the present petition and a copy of the return-receipt postcard evidencing the filing of the application, and a copy of the Notice of Incomplete Nonprovisional Application mailed February 8, 2008, and what appears to be an amended specification and drawings[1].

[1] On January 18, 2008, Applicant deposited a one (1) page specification, and one (1) drawing sheet. The Office mailed a Notice to Incomplete Nonprovisional Application on February 8, 2008. In response, on March 11, 2008, Applicant filed a specification numbering four (4) pages; page two (2) of which included drawing Figures. No separate or additional drawing sheets were filed at that time. The Office then mailed the Notice to File Corrected Application Papers on April 1, 2008. The specification filed with the present petition numbers three (3) pages

Applicant asserts that "all information sent March 6, 2008." It is noted that while Applicant has filed with the present petition copies of the Notice of Incomplete Nonprovisional Application and the Notice of Abandonment, no copy of the Notice to File Corrected Application papers was filed. Although not stated, Applicant appears to assert that she has replied to all Office actions.

Analysis/conclusion

Applicant is advised that abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed April 1, 2008. Applicant should clarify the purpose of the correspondence filed December 23, 2008. Assuming, arguendo, that Applicant is asserting that she has responded to all Office communications received, and that she did not receive the Notice to File Corrected Application Papers ("Notice"), mailed April 1, 2008, the following is provided:

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all

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instead of four, and Applicant has filed two (2) drawing sheets. As such, the application appears to have been amended.

replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

Analysis/conclusion

The Office requirements for granting a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication has been modified. The Office requires a statement from the petitioner 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. In addition, a copy of the petitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LaTheasa Vestine Stevens
14505 Rumfeldt
Austin TX 78725

COPY MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
LaTheasa Vestine Stevens :
Application No.: 12/009287 : DECISION ON
Filing or 371(c) Date: 03/11/2008 : PETITION
Title of Invention: :
VESTINE MOTIF UNIQUE BOOKMARKS :

This is a decision in response to the renewed petition filed March 4, 2009. The renewed petition is properly treated as a petition under 37 CFR 1.181 (no fee).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed April 1, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 2, 2008. A Notice of Abandonment was mailed December 4, 2008.

With the present renewed petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to the Office of Patent Application Processing for re-mailing of the Notice to File Corrected Application Papers, and re-setting the period for reply. A copy of the Notice is also enclosed.

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

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

Enclosure: Notice to File Corrected Application Papers, mailed April 1, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/009,287	03/11/2008	LaTheasa Vestine Stevens	

CONFIRMATION NO. 3656

LaTheasa Vestine Stevens
14505 Rumfeldt
Austin, TX 78725

FORMALITIES LETTER

OC000000029014916

Date Mailed: 04/01/2008

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The substitute specification must be submitted with markings and be accompanied by a clean version (without markings) as set forth in 37 CFR 1.125(c) and a statement that the substitute specification contains no new matter (see 37 CFR 1.125(b)). The specification, claims, and/or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
  - The specification contains drawings or flow diagrams (37 CFR 1.58(a)) on page(s) 2. Drawings or flow diagrams cannot be embedded in the specification and should be submitted separately in accordance with 37 CFR 1.84. (Both a substitute specification in compliance with 37 CFR 1.125 and new drawings in compliance with 37 CFR 1.84 and 1.121(d) are required).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/tlulu/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,301	01/17/2008	Shiho Hashimoto	4041J-001402	3845

EXAMINER

7590 08/28/2009

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

ART UNIT	PAPER NUMBER
3749	

MAIL DATE	DELIVERY MODE
08/28/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/01/2009 NFARMER 0030168670

CHECK Refund Total: $510.00

Adjustment date: 09/01/2009 NFARMER
01722/2008 LTRUONG 00000006 12009301
02 FC:1111 -510.00 OP

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,323	01/17/2008	Thierry Mesana	P0026277.01	3653

77218 7590 07/12/2010

Medtronic CardioVascular
Mounds View Facility South
8200 Coral Sea Street N.E.
Mounds View, MN 55112

EXAMINER	
MILLER, CHERYL L	
ART UNIT	**PAPER NUMBER**
3738	

NOTIFICATION DATE	DELIVERY MODE
07/12/2010	ELECTRONIC

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

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

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

rs.vasciplegal@medtronic.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

Medtronic CardioVascular
Mounds View Facility South
8200 Coral Sea Street N.E.
Mounds View MN 55112

In re Application of:
MESANA, THIERRY et al
Serial No. 12/009,323
Filed: Jan. 17, 2008
Docket: P0026277.01
Title: STENTED HEART VALVE DEVICES AND METHODS FOR ATRIOVENTRICULAR VALVE REPLACEMENT

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the request filed July 2, 2010 under 37 CFR 1.181 requesting withdrawal of the election of species requirement action mailed June 17, 2010 and issuance a complete restriction requirement and election of species.

The petition is Granted.

In finding petitioner's points of argument persuasive and to clarify the record, the requested relief is granted. After consulting with the examiner, the examiner agrees to withdraw the previous restriction requirement mailed on June 17, 2010 and re-issue a complete restriction requirement in due course.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3738 for preparation of a new Office action. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Angela D. Sykes, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBER, KALER, GRIMES & SHRIVER
120 EAST BALTIMORE STREET
BALTIMORE, MD 21202-1643

MAILED

APR 23 2009

OFFICE OF PETITIONS

Applicant: Hart, et al.
Appl. No.: 12/009,327
Filing Date: January 17, 2008
Title: OFFICE MANAGEMENT SOLUTION
Attorney Docket No.: 028172.078584
Pub. No.: US 2008/0183483 A1
Pub. Date: July 31, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 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 publication wherein one of the inventors' names has been improperly omitted. Applicant's representative argues that the original filing of the application included two inventors.

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 does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to inventorship. The publication was correctly printed with the inventorship, which was set by the Declaration received by the Office on April 8, 2008, which listed only one inventor.

[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's representative submitted a declaration received on April 8, 2008, which listed one inventor (Marcia A. Hart) and was signed by the one inventor. Inventorship is set by the first-filed executed oath or declaration submitted by applicants.

> Where the first-filed executed oath or declaration was filed on or after December 1, 1997 and sets forth an inventive entity which is different from the inventive entity initially set forth at the time of filing of the application, the actual inventorship of the application will be taken from the executed oath or declaration. See 37 CFR 1.41(a)(1). See MPEP 201.03.

The Corrected Filing Receipt mailed by the Office on June 19, 2008, which included Mark Snuffin as a second named inventor was mailed in error, since the executed declaration only listed Marcia A. Hart. The Office electronic records will be corrected and a Corrected Filing Receipt listing Marcia A. Hart as the sole inventor will be mailed by the Office.

Pursuant to 37 CFR 1.48(a), amendment of the inventorship requires: "(1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) An oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in §1.17(i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment."

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 August 14, 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 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

21 NOV 2008

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

PYLE & PIONTEK
ATTN: THOMAS R. VIGIL
221 N LASALLE STREET , ROOM 2036
ROOM 2036
CHICAGO IL 60601

In re Application of :
RINALDI, Tazio et al. :
Application No.: 12/009,360 :
Filing Date: 18 January 2008 : DECISION
Attorney Docket No.: VLM-40009 :
For: VISUAL DEVICE FOR VEHICLES IN DIFFICULT CLIMATIC/ ENVIRONMENTAL CONDITIONS :

This is a decision on applicant's "Petition" filed in the United States Patent and Trademark Office on 24 September 2008.

BACKGROUND

On 18 January 2008, applicants filed *inter alia*, fees, a utility patent application transmittal letter, fees and an application data sheet.

On 15 April 2008, the Office mailed Notice to File Corrected Application Papers and Filing Receipt.

On 24 September 2008, applicant filed this petition claiming that the application was a filing under 35 USC 371, not a filing under 35 USC 111(a).

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

The USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

Here, the reference to 37 CFR 1.53(b) at the top of the transmittal letter filed on 18 January 2008, is an instruction to process the application pursuant to 35 U.S.C. 111(a). Thus, the application is a filing under 35 U.S.C. 111(a) pursuant to 1077 OG 13.

Further, applicant's arguments about the application data sheet are not persuasive as applicant acknowledges that the transmittal letter is an instruction to process under 35 USC 111(a) and the test of the filing is not a balancing test. However, it is further noted that an application data sheet is not in the originally filed papers and the declaration does not identify the application as a national phase entry.

U.S. Statutes and Regulations do not make specific provision for conversion of the application to a national phase and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

Applicant has created a 35 USC 111(a) application, but has not made a valid priority claim to the international application and its priority document. Applicant may wish to consider filing a petition under 37 CFR 1.78 to add an unintentionally delayed priority claim.

CONCLUSION

As indicated above, this application will be processed as a 35 USC 111(a) filing.

This application is being forwarded to the Initial Processing Division of the Office of Patent Application Processing for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

12 MAY 2010

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

Thomas R. Vigil Law Offices
319 Bluff Court
Lake Barrington IL 60010

In re Application of :
RINALDI, Tazio et al. :
Application No.: 12/009,360 :
Filing Date: 18 January 2008 : DECISION
Attorney Docket No.: VLM-40009 :
For: VISUAL DEVICE FOR VEHICLES IN DIFFICULT CLIMATIC/ ENVIRONMENTAL CONDITIONS :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 27 April 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment and an application data sheet, previously filed.

The petition is **DISMISSED**.

A 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

Item (3) has not been satisfied.

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.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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TY UNG
16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436

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SEP 02 2008

In re Application of :
CHA, Pablo :
Application No. 12/009,394 : DECISION ON PETITION
Filed: January 16, 2008 : TO WITHDRAW
Attorney Docket No. **22995-001** : 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 June 18, 2008.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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 of the conditions set forth in 37 CFR 10.40.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PETEL & ALUMIT PC**
16830 VENTURE BLVD., SUITE 360
ENCINO CA 91436

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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JAMES WILLIAM MCCULLY
2146 KAUMANA DRIVE
HILO HI 96720

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
James William McCully :
Application No. 12/009,396 : DECISION ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed February 13, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning 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 Paper for pre-examination processing of the reply received April 2, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 19 2008

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

In re Application of :
Paulo Marques :
Application No.: 12/009,418 : ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. SP02-251A :

This is in response to the petition under 37 CFR 1.137(b) filed November 17, 2008.

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

A "Notice to File Corrected Application Papers" (the "Notice") was mailed by the Office on March 17, 2008, allowing a shortened period of reply of two-months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required a substitute specification to be filed. A complete response was not received within the allowable period, and the application became abandoned on September 18, 2008.

The substitute specification filed November 17, 2008, is noted.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Scot Corbett	: DECISION ON REQUEST FOR
Patent Number	: PP20499	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/009,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2008	: 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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www.uspto.gov

ANDREW F. KNIGHT
1119 TUXFORD DRIVE
BRANDON FL 33511

NOV 12 2008

In re Application of: CRESCI, TIMOTHY
Serial No.: 12/009,442
Filed: January 18, 2008
Title: HYDROELECTRIC POWER PLANT AND METHOD OF GENERATING POWER

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 October 27, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d), applications and petitions must be filed 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), effective August 25, 2006. The filing is missing, *inter alia*, a pre-examination search document, an Accelerated Examination Support Document, and form. PTO/SB/28.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register of June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Notably, special status based upon categories such as manufacture, infringement, environmental quality, conservation of energy resources, recombinant DNA, superconductivity materials, HIV/AIDS and cancer, countering terrorism, and biotechnology applications filed by small entities are no longer available (see in above cited notice, p. 36324, col. 1, l. 47 to col. 2, l. 5). Further guidance may be found at www.USPTO.gov under the accelerated examination link.

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner at 571 272 4828.

Ehud Gartenberg
Special Program Examiner
Technology Center 3700

Encl. "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).

(2) Activities will be initiated before dusk;

(3) Construction noises must be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present;

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, start-up of activities will include a gradual increase in noise levels;

(5) A NMFS-approved marine mammal observer will visually monitor the pinnipeds on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of Boeing's activities (see Monitoring); and

(6) To the extent possible, the *Delta Mariner* and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks. The vessel will reduce speed 1.5 to 2 knots (2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel will enter the harbor stern first, approaching the wharf and mooring dolphins at less than 0.75 knot (1.4 km/hr).

Monitoring

As part of its 2002 application, Boeing provided a proposed monitoring plan for assessing impacts to harbor seals from the activities at south VAFB harbor and for determining when mitigation measures should be employed. NMFS proposes the same plan for this IHA.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for pinnipeds during all harbor activities. During nighttime activities, the harbor area will be illuminated, and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities;

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough for pinnipeds to haul out (2 ft, 0.61 m, or less); and

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Monitoring results from previous years of these activities have been reviewed and incorporated into the analysis of potential effects in this document, as well as the take estimates.

Reporting

Boeing will notify NMFS 2 weeks prior to initiation of each activity. After each activity is completed, Boeing will provide a report to NMFS within 90 days. This report will provide dates and locations of specific activities, details of seal behavioral observations, and estimates of the amount and nature of all takes of seals by harassment or in other ways. In addition, the report will include information on the weather, the tidal state, the horizontal visibility, and the composition (species, gender, and age class) and locations of haul-out group(s). In the unanticipated event that any marine mammal is injured or killed as a result of these activities, Boeing or its designee shall report the incident to NMFS immediately.

Endangered Species Act

This action will not affect species listed under the Endangered Species Act (ESA) that are under the jurisdiction of NMFS. VAFB formally consulted with U.S. Fish and Wildlife Service (FWS) in 1998 on the possible take of southern sea otters during Boeing's harbor activities at south VAFB. A Biological Opinion was issued in August 2001, which concluded that the proposed activities were not likely to jeopardize the continued existence of the southern sea otter. The activities covered by this IHA are analyzed in that Biological Opinion, and this IHA does not modify the action in a manner that was not previously analyzed.

National Environmental Policy Act

In 2001, the USAF prepared an Environmental Assessment (EA) for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, NMFS prepared an EA supplementing the information contained in the USAF EA and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for Boeing's harbor activities in accordance with section 6.01 of the National Oceanic and Atmospheric Administration Administrative Order (NAO) 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). The proposed activity is within the scope of NMFS'2005 EA and FONSI.

Conclusions

NMFS has issued an IHA to Boeing for harbor activities related to the Delta IV/EELV to take place at south VAFB over a 1-year period, contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has determined that the impact of harbor activities related to the Delta IV/EELV at VAFB (transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation) will result in the Level B Harassment of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals. The effects of Boeing's harbor activities are expected to be in the form of short-term and localized behavioral changes and no take by injury or death is anticipated or authorized. NMFS has further determined that these takes will have a negligible impact on the affected marine mammal species and stocks and will not have an unmitigable adverse impact on the availability of such marine mammal species and stocks for subsistence uses.

Authorization

NMFS has issued an IHA to take marine mammals, by Level B harassment, incidental to conducting harbor activities at VAFB to Boeing for a 1-year period, provided the mitigation, monitoring, and reporting requirements are undertaken.

Dated: June 19, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10044 Filed 6–23–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2006–0014]

Changes to Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) has established procedures under which the examination of a patent application may be accelerated. Under one of these procedures, the USPTO will advance an application out of turn for examination if the applicant files a grantable petition to make special under the accelerated examination program. The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the recently announced Patent Prosecution Highway (PPH) pilot program between the USPTO and the Japan Patent Office.

DATES: *Effective Date:* The change in practice in this notice applies to

petitions to make special filed on or after August 25, 2006.

FOR FURTHER INFORMATION CONTACT: Pinchus Laufer, Detailee, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272–7726, or by facsimile at (571) 273–7726. Comments concerning petition to make special practice may be sent by electronic mail message over the Internet addressed to *MPEPFeedback@uspto.gov*, or submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313–1450.

Any inquiries concerning electronic filing of the application should be directed to the Electronic Business Center (EBC) at (866) 217–9197. Any inquiries concerning a specific petition to make special should be directed to the appropriate Technology Center Special Program Examiner.

SUPPLEMENTARY INFORMATION: New patent applications are normally taken up for examination in the order of their United States filing date. The USPTO has a procedure for requesting accelerated examination under which an application will be advanced out of turn for examination if the applicant files a petition to make special with the appropriate showing. *See* 37 CFR 1.102 and *Manual of Patent Examining Procedure* § 708.02 (VIII) (8th ed. 2001) (Rev. 3, August 2005) (MPEP). The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. *See* Part VIII (subsection The Twelve-Month Goal) for more information.

The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the PPH pilot program. Specifically, other petitions to make special (*i.e.*, petitions based on: manufacture, infringement, environmental quality, energy, recombinant DNA, superconductivity materials, HIV/AIDS and cancer, countering terrorism, and biotechnology applications filed by small entities (*see* MPEP § 708.02)) will be processed and examined using the revised procedure for accelerated examination. Thus, all petitions to make special, except those based on applicant's health or age or the PPH pilot program, will be required to comply with the requirements of petitions to make special under the accelerated examination program that are set forth in this notice.

Any petition to make special, other than those based on applicant's health or age or the PPH pilot program, filed on or after the effective date must meet the requirements set forth in this notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. Until the effective date, applicant may file a petition to make special in an application filed before the effective date by complying with the previous guidelines and requirements in MPEP § 708.02 (I–II, and V–XII). A petition to make special filed after the effective date will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in this notice. See Part VIII, for more information on eligibility.

Part I. Requirements for Petitions to Make Special under Accelerated Examination: A new application may be granted accelerated examination status under the following conditions:

(1) The application must be filed with a petition to make special under the accelerated examination program accompanied by either the fee set forth in 37 CFR 1.17(h) or a statement that the claimed subject matter is directed to environmental quality, energy, or countering terrorism. *See* 37 CFR 1.102(c)(2). Applicant should use form PTO/SB/28 for filing the petition.

(2) The application must be a non-reissue utility or design application filed under 35 U.S.C. 111(a).

(3) The application, petition, and required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-Web. If the USPTO's EFS and EFS-Web are not available to the public during the normal business hours for these systems at the time of filing the application, applicant may file the application, other papers and fees by mail accompanied by a statement that EFS and EFS-Web were not available during the normal business hours, but the final disposition of the application may occur later than twelve months from the filing of the application. *See* Part VIII (subsection The Twelve-Month Goal) for more information.

(4) At the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination. For example, the application must be filed together with the basic filing fee, search fee, examination fee, and application size fee (if applicable), and an executed oath or declaration under 37 CFR 1.63. *See* Part VIII (subsection Conditions for Examination) for more information.

(5) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must also not contain any multiple dependent claims. By filing a petition to make special under the accelerated examination program the applicant is agreeing not to separately argue the patentability of any dependent claim during any appeal in the application. Specifically, the applicant is agreeing that the dependent claims will be grouped together with and not argued separately from the independent claim from which they depend in any appeal brief filed in the application (37 CFR 41.37(c)(1)(vii)). The petition must include a statement that applicant will agree not to separately argue the patentability of any dependent claim during any appeal in the application. See form PTO/SB/28.

(6) The claims must be directed to a single invention. If the USPTO determines that all the claims presented are not directed to a single invention, applicant must make an election without traverse in a telephonic interview. The petition must include a statement that applicant will agree to make an election without traverse in a telephonic interview. See form PTO/SB/28.

(7) The applicant must be willing to have an interview (including an interview before a first Office action) to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time. The petition must include a statement that applicant will agree to have such an interview when requested by the examiner. See form PTO/SB/28.

(8) At the time of filing, applicant must provide a statement that a preexamination search was conducted, including an identification of the field of search by United States class and subclass and the date of the search, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search.

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

(B) This preexamination search must be directed to the claimed invention and

encompass all of the features of the claims, giving the claims the broadest reasonable interpretation.

(C) The preexamination search must also encompass the disclosed features that may be claimed. An amendment to the claims (including any new claim) that is not encompassed by the preexamination search or an updated accelerated examination support document (*see* item 9) will be treated as not fully responsive and will not be entered. *See* Part IV (Reply by Applicant) for more information.

(D) A search report from a foreign patent office will not satisfy this preexamination search requirement unless the search report satisfies the requirements set forth in this notice for a preexamination search.

(E) Any statement in support of a petition to make special must be based on a good faith belief that the preexamination search was conducted in compliance with these requirements. *See* 37 CFR 1.56 and 10.18.

(9) At the time of filing, applicant must provide in support of the petition an accelerated examination support document.

(A) An accelerated examination support document must include an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims.

(B) For each reference cited, the accelerated examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference.

(C) The accelerated examination support document must include a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c).

(D) The accelerated examination support document must include a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application).

(E) The accelerated examination support document must include a showing of where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in the written description of the specification. If applicable, the showing must also identify: (1) Each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6; and (2) the structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6. If the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.

(F) The accelerated examination support document must identify any cited references that may be disqualified as prior art under 35 U.S.C. 103(c) as amended by the Cooperative Research and Technology Enhancement (CREATE) Act (Pub. L. 108–453, 118 Stat. 3596 (2004)).

Part II. Decision on Petition To Make Special: Applicant will be notified of the decision by the deciding official. If the application and/or petition does not meet all the prerequisites set forth in this notice for the application to be granted special status (including a determination that the search is deemed to be insufficient), the applicant will be notified of the defects and the application will remain in the status of a new application awaiting action in its regular turn. In those instances in which the petition or accelerated examination support document is defective in one or more requirements, applicant will be given a single opportunity to perfect the petition or accelerated examination support document within a time period of one month (no extensions under 37 CFR 1.136(a)). This opportunity to perfect a petition does not apply to applications that are not in condition for examination on filing. *See* Part VIII (subsection Condition for Examination). If the document is satisfactorily corrected in a timely manner, the petition will then be granted, but the final disposition of the application may occur later than twelve months from the filing date of the application. Once a petition has been granted, prosecution will proceed according to the procedure set forth below.

Part III. The Initial Action on the Application by the Examiner: Once the application is granted special status, the application will be docketed and taken up for action expeditiously (*e.g.*, within two weeks of the granting of special status). If it is determined that all the claims presented are not directed to a single invention, the telephone restriction practice set forth in MPEP § 812.01 will be followed. Applicant must make an election without traverse during the telephonic interview. If applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (the invention of claim 1) as constructively elected without traverse for examination. Continuing applications (*e.g.*, a divisional application directed to the non-elected inventions) will not automatically be given special status based on papers filed with the petition in the parent application. Each continuing application must on its own meet all requirements for special status.

If the USPTO determines that a possible rejection or other issue must be addressed, the examiner will telephone the applicant to discuss the issue and any possible amendment or submission to resolve such issue. The USPTO will not issue an Office action (other than a notice of allowance) unless either: (1) An interview was conducted but did not result in the application being placed in condition for allowance; or (2) there is a determination that an interview is unlikely to result in the application being placed in condition for allowance. Furthermore, prior to the mailing of any Office action rejecting the claims, the USPTO will conduct a conference to review the rejections set forth in the Office action.

If an Office action other than a notice of allowance or a final Office action is mailed, the Office action will set a shortened statutory period of one-month or thirty-days, whichever is longer. No extensions of this shortened statutory period under 37 CFR 1.136(a) will be permitted. Failure to timely file a reply will result in abandonment of the application. *See* Parts V and VI for more information on post-allowance and after-final procedures.

Part IV. Reply by Applicant: A reply to an Office action must be limited to the rejections, objections, and requirements made. Any amendment that attempts to: (1) Add claims which would result in more than three independent claims, or more than twenty total claims, pending in the application; (2) present claims not encompassed by the preexamination search (*see* item 8 of Part I) or an updated accelerated examination support document (*see* next paragraph); or (3) present claims that are directed to a nonelected invention or an invention other than previously claimed in the application, will be treated as not fully responsive and will not be entered. *See* Part VIII (subsection Reply Not Fully responsive) for more information.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document in Part I, item 9, applicant is required to provide an updated accelerated examination

support document that encompasses the amended or new claims at the time of filing the amendment. Failure to provide such updated accelerated examination support document at the time of filing the amendment will cause the amendment to be treated as not fully responsive and not to be entered. *See* Part VIII (subsection Reply Not Fully Responsive) for more information. Any IDS filed with an updated accelerated examination support document must also comply with the requirements of 37 CFR 1.97 and 1.98.

Any reply or other papers must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the papers are not filed electronically via EFS-Web, or the reply is not fully responsive, the final disposition of the application may occur later than twelve months from the filing of the application.

Part V. Post-Allowance Processing: The mailing of a notice of allowance is the final disposition for purposes of the twelve-month goal for the program. In response to a notice of allowance, applicant must pay the issue fee within three months from the date of mailing of the Notice of Allowance and Fee(s) Due (form PTOL–85) to avoid abandonment of the application. In order for the application to be expeditiously issued as a patent, the applicant must also: (1) Pay the issue fee (and any outstanding fees due) within one month from the mailing date of the form PTOL–85; and (2) not file any post-allowance papers that are not required by the USPTO (*e.g.*, an amendment under 37 CFR 1.312 that was not requested by the USPTO).

Part VI. After-Final and Appeal Procedures: The mailing of a final Office action or the filing of a notice of appeal, whichever is earlier, is the final disposition for purposes of the twelve-month goal for the program. Prior to the mailing of a final Office action, the USPTO will conduct a conference to review the rejections set forth in the final Office action (*i.e.*, the type of conference conducted in an application on appeal when the applicant requests a pre-appeal brief conference). In order for the application to be expeditiously forwarded to the Board of Patent Appeals and Interferences (BPAI) for a decision, applicant must: (1) Promptly file the notice of appeal, appeal brief, and appeal fees; and (2) not request a pre-appeal brief conference. A pre-appeal brief conference would not be of value in an application under a final Office action because the examiner will have already conducted such a conference prior to mailing the final Office action. During the appeal process, the application will be treated in accordance with the normal appeal procedures. The USPTO will continue to treat the application special under the accelerated examination program after the decision by the BPAI.

Any after-final amendment, affidavit, or other evidence filed under 37 CFR 1.116 or 41.33 must also meet the requirements set forth in Part IV (Reply by Applicant). If applicant files a request for continued examination (RCE) under 37 CFR 1.114 with a submission and fee, the submission must meet the reply requirements under 37 CFR 1.111 (*see* 37 CFR 1.114(c)) and the requirements set forth in Part IV (Reply by Applicant). The filing of the RCE is a final disposition for purposes of the twelve-month goal for the program. The application will retain its special status and remain in the accelerated examination program. Thus, the examiner will continue to examine the application in accordance with the procedures set forth in Part III and any subsequent replies filed by applicant must meet the requirements of Part IV. The goal of the program will then be to reach a final disposition of the application within twelve months from the filing of the RCE.

Part VII. Proceedings Outside the Normal Examination Process: If an application becomes involved in proceedings outside the normal examination process (*e.g.*, a secrecy order, national security review, interference, or petitions under 37 CFR 1.181–1.183), the USPTO will treat the application special under the accelerated examination program before and after such proceedings. During those proceedings, however, the application will not be accelerated. For example, during an interference proceeding, the application will be treated in accordance with the normal interference procedures and will not be treated under the accelerated examination program. Once any one of these proceedings is completed, the USPTO will process the application expeditiously under the accelerated examination program until it reaches final disposition, but that may occur later than twelve months from the filing of the application.

Part VIII. More Information: Eligibility: Any non-reissue utility or design application filed under 35 U.S.C. 111(a) on or after the effective date of this program is eligible for the revised accelerated examination program. The following types of filings are not eligible for this revised accelerated examination program: Plant applications, reissue applications, applications entering the national stage from an international application after compliance with 35 U.S.C. 371, reexamination proceedings, RCEs under 37 CFR 1.114 (unless the application was previously granted special status under the program), and petitions to make special based on applicant's health or age or under the PPH pilot program. Rather than participating in this revised accelerated examination program, applicants for a design patent may participate in the expedited examination program by filing a request in compliance with the guidelines set forth in MPEP § 1504.30. *See* 37 CFR 1.155.

Form: Applicant should use form PTO/SB/28 for filing a petition to make special, other than those based on applicant's health or age or the PPH pilot program. The form is available on EFS-Web and on the USPTO's Internet Web site at *http://www.uspto.gov/web/forms/index.html.*

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

(A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),

(B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));

(C) An executed oath or declaration in compliance with 37 CFR 1.63;

(D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;

(E) A title and an abstract in compliance with 37 CFR 1.72;

(F) Drawings in compliance with 37 CFR 1.84;

(G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);

(H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);

(I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is

accurate, have been filed in the provisional application) (if applicable);

(J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);

(K) No preliminary amendments present on the filing date of the application; and

(L) No petition under 37 CFR 1.47 for a non-signing inventor.

Furthermore, if the application is a design application, the application must also comply with the requirements set forth in 37 CFR 1.151–1.154.

Applicant should also provide a suggested classification, by class and subclass, for the application on the transmittal letter, petition, or an application data sheet as set forth in 37 CFR 1.76(b)(3) so that the application can be expeditiously processed.

The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (*e.g.*, a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (Part II) does not apply to applications that are not in condition for examination on filing.

Reply Not Fully Responsive: If a reply to a non-final Office action is not fully responsive, but a *bona fide* attempt to advance the application to final action, the examiner may provide one month or thirty-days, whichever is longer, for applicant to supply the omission or a fully responsive reply. No extensions of this time period under 37 CFR 1.136(a) will be permitted. Failure to timely file the omission or a fully responsive reply will result in abandonment of the application. If the reply is not a *bona fide* attempt or it is a reply to a final Office action, no additional time period will be given. The time period set forth in the previous Office action will continue to run.

Withdrawal From Accelerated Examination: There is no provision for "withdrawal" from special status under the accelerated examination program. An applicant may abandon the application that has been granted special status under the accelerated examination program in favor of a continuing application, and the continuing application will not be given special status under the accelerated examination program unless the continuing application is filed with a petition to make special under the accelerated examination program. The filing of an RCE under 37 CFR 1.114, however, will not result in an application being withdrawn from special status under the accelerated examination program.

The Twelve-Month Goal: The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. The twelve-month goal is successfully achieved when one of the following final dispositions occurs: (1) The mailing of a notice of allowance; (2) the mailing of a final Office action; (3) the filing of an RCE; or (4) the abandonment of the application. The final disposition of an application, however, may occur later than the twelve-month timeframe in certain situations (*e.g.*, an IDS citing new prior art after the mailing of a first Office action). *See* Part VII for more information on other events that may cause examination to extend beyond this twelve-month time frame. In any event, however, this twelve-month timeframe is simply a goal. Any failure to meet the twelve-month goal or other issues relating to this twelve-month goal are neither petitionable nor appealable matters.

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and previously approved by OMB under OMB control number 0651–0031. The Office has submitted a Change Worksheet to OMB for review of form PTO/SB/28 Petition to Make Special Under the Accelerated Examination.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Section 708.02 of the *Manual of Patent Examining Procedure* will be revised in due course to reflect this change in practice.

Dated: June 20, 2006.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E6–10022 Filed 6–23–06; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designation under the Textile and Apparel Commercial Availability Provisions of the United States Caribbean Basin Trade Partnership Act (CBTPA)

June 21, 2006.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Designation.

EFFECTIVE DATE: June 26, 2006.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain 100 percent cotton, yarn-dyed, 3- or 4-thread twill weave, flannel fabrics, of combed, ring spun single yarns, of the specifications detailed below, classified in subheading 5208.43.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in products in Categories 340, 341, and 350, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The CITA hereby designates products in Categories 340, 341, and 350 that are both cut and sewn or otherwise assembled in one or more eligible CBTPA beneficiary countries from such fabrics, as eligible for quota free and duty free treatment under the textile and apparel commercial availability provisions of the CBTPA and eligible under HTSUS subheading 9820.11.27 to enter free of quota and duties, provided that all other fabrics in the referenced apparel articles are wholly formed in the United States from yarns wholly formed in the United States.

FOR FURTHER INFORMATION CONTACT: Maria K. Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of CBERA, as added by Section 211(a) of the CBTPA; Presidential Proclamation 7351 of October 2, 2000; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The commercial availability provision of the CBTPA provides for duty free and quota free treatment for apparel articles that are both cut (or knit to shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely

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BROOKS, CAMERON & HUEBSCH, PLLC
1221 NICOLLET AVENUE, SUITE 500
MINNEAPOLIS MN 55403

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Purvines et al.	:	DECISION ON PETITION
Application No. 12/009,449	:	TO WITHDRAW
Filed: January 18, 2008	:	FROM RECORD
Attorney Docket No. 900.0050007	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 27, 2009.

The request is **NOT APPROVED**.

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

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

According to USPTO records it is noted that the current assignee is Kurz-Kasch, Inc., recorded on March 28, 2007 on Reel 019077 and Frame 0605. Petitioner has submitted an incorrect Statement under 37 CFR 3.73(b). Therefore, a properly completed Statement under 37 CFR 3.73(b) must be submitted by Kurz-Kasch, Inc. in order to comply with 37 CFR 3.71 and establish Kurz-Kasch, Inc. as the new assignee of record.

Further, the request was signed by Edward J. Brooks III on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

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

Currently, there is an outstanding Office action mailed April 28, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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1221 NICOLLET AVENUE, SUITE 500
MINNEAPOLIS MN 55403

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OFFICE OF PETITIONS

In re Application of	:	
Purvines et al.	:	DECISION ON PETITION
Application No. 12/009,449	:	TO WITHDRAW
Filed: January 18, 2008	:	FROM RECORD
Attorney Docket No. 900.0050007	:	

This is a decision on the renewed request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 26, 2009.

The request is **APPROVED**.

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

The request was signed by Joseph C. Huebsch on behalf of all attorneys of record who are associated with Customer No. 38356.

All attorneys/agents associated with Customer Number 38356 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

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

Currently, there is an outstanding Office action mailed April 28, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Kurz-Kasch, Inc.
511 Byers Road
Miamisburg OH 45342

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	378	(206/469).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/03/05 19:07
S2	0	("20070193917A1").PN.	USPAT; USOCR	OR	OFF	2010/03/05 20:18
S3	0	("20070193917A1").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2010/03/05 20:19
S4	0	20070193917A1	USPAT	OR	ON	2010/03/05 20:19
S5	0	20070193917A1	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/05 20:19
S6	3	"20070193917"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/05 20:19
S7	9	"2996775"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/05 20:21
S8	2	"2996775".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/05 20:21
S9	16	"4569442"	USPAT	OR	ON	2010/03/09 09:48

EAST Search History (Interference)

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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	2	"5429241".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:05
S2	2	"5407066".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:06
S3	3	"3972417".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:08
S4	3	"4095691".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:10
S5	0	"39701974".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:11
S6	3	"3970194".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:12
S7	5	"3933245".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:13
S8	0	"12009460".pn.	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2010/03/03 18:28
S9	0	"12009460".pn.	US-PGPUB	OR	ON	2010/03/03 18:28
S10	1	"12009460"	US-PGPUB	OR	ON	2010/03/03 18:28
S11	7821	blister adj pack	US-PGPUB	OR	ON	2010/03/03 18:29
S12	11559	"206"/$.ccls.	US-PGPUB	OR	ON	2010/03/03 18:29

S13	511	S11 and S12	US-PGPUB	OR	ON	2010/03/03 18:29
S14	0	"5322164".pn.	US-PGPUB	OR	ON	2010/03/04 12:29
S15	4	"5322164"	US-PGPUB	OR	ON	2010/03/04 12:30
S16	2	"5322164".pn.	USPAT; DERWENT	OR	ON	2010/03/04 12:32
S17	33	"5407066"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 14:03
S18	45	"5429241"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 14:04
S19	98	radio adj frequency adj seal	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 15:56
S20	940	206/470	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 15:58
S21	0	S19 and S20	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 15:58
S22	227	206/703	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:00
S23	0	S19 and S20	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:00
S24	2105	206/461	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:01
S25	0	S19 and S24	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:01
S26	0	"206"/$.* .ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:01

S27	135103	"206"/$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:01
S28	3	S19 and S27	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/08 16:02
S29	17	"4569442"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 09:58
S30	1906216	two adj paper board	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:15
S31	532	two adj cardboard	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:15
S32	943	206/470	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:16
S33	2	S31 and S32	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:16
S34	23	("3428171" | "3463309" | "3857487" | "4091930" | "4319684" | "4499353").PN. OR ("4569442"). URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/03/11 10:17
S35	811	206/469	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:36
S36	3	S30 and S34	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:36
S37	1715588	seal	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:44

S38	4	S31 and S37 and S35	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/03/11 10:45

EAST Search History (Interference)

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Paper No.

J. Gary Mohr
3 Lisa Lane
Goshen NY 10924

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In re Application of :
Pitman et al. : DECISION ON PETITION
Application No. 12/009,462 :
Deposited: January 19, 2008 :
Atty Docket No. Mascaritola 1 :

This is a decision on the "PETITION FOR FILING DATE" filed April 11, 2008, requesting that the above-referenced application be accorded a filing date of January 19, 2008.

For the reasons stated herein, the petitions under 37 CFR 1.53(e) and 37 CFR 1.57(a) are **DISMISSED**.

Applicants are given **TWO (2) MONTHS** from the mailing date of this decision to correct the below-noted deficiencies, including supplying an amendment in compliance with §§ 1.57 and 1.121 or otherwise, properly respond. This period is not extendable. See 37 CFR 1.181(f). The reconsideration request should include a cover letter entitled "RENEWED PETITION UNDER 37 CFR 1.53(e)," or "RENEWED PETITION UNDER 37 CFR 1.57(a)," as appropriate.

Application papers in the above-identified application were deposited on January 19, 2008. However, on February 11, 2008, the Office mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. (In addition, a signed oath or declaration for patent was required). This Notice set a two-month period for reply.

In response, applicants filed the instant petition. Applicants maintain that the drawings were sent with the application and it

was noted on the Application form as three pages of drawings. Applicants further assert that even if the drawings were not submitted, since this Application claimed the date of the Provisional 60/881,611 which had the drawings, those drawings should be accepted as the drawing for the present application at the time of its filing, January 19, 2008. A copy of the drawings is submitted on petition.

Consideration of Petition under 37 CFR 1.53(e)

35 U.S.C. 111(a)(4) provides, in pertinent part, that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

In this instance, no drawings were among the papers received in the above-identified application on filing.

Further, applicants have not submitted persuasive evidence (e.g., an itemized postcard) to support their contention that the application as filed included three pages of drawings. Applicants point to the notation on their application transmittal form that the application includes 3 total sheets of drawings. However, such transmittal forms are not deemed by the Office to be persuasive evidence of filing of papers in an application. Such forms are not reviewed by the Office upon receipt of the application to confirm the contents of the filing. Rather, it is well established that if applicants want to have *prima facie* evidence of the filing of papers in the Office, an itemized return postcard should be utilized. See MPEP 503. Unfortunately, it does not appear that applicants utilized the return postcard practice.

It is concluded that applicants' notation on the application form merely supports a conclusion that applicants intended to file drawings, but does not establish that applicants did, in fact, file drawings. The lack of utility of the application transmittal as persuasive evidence of the papers filed is illustrated in this case. Here, it is noted on the application transmittal that a newly executed declaration is among the papers being transmitted. However, it is undisputed that the application was actually filed with an unexecuted declaration. (Receipt of the executed declaration on April 11, 2008 is acknowledged).

In view thereof, the petition under 37 CFR 1.53(e) is dismissed.

Any request for reconsideration pursuant to this paragraph should include *prima facie* evidence (e.g. date-stamped and itemized postcard) that the drawings were filed on January 19, 2008.

As applicants have not established that the drawings were present on filing or that the Notice of Incomplete Nonprovisional Application was mailed in error, the petition fee is required. Petitioner's request for refund of the fee is denied.

Consideration of Petition under 37 CFR 1.57(a)

Nonetheless, applicants may avail themselves of the benefit of 37 CFR § 1.57 which provides that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> > (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
> >
> > (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;

> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
>
> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.
>
> ...
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

The instant application was filed after September 21, 2004, and thus, the provisions of 37 CFR 1.57(a) are applicable. Petitioner asserts that the application as filed on January 19, 2008 included a claim under 37 CFR 1.78 for the benefit of provisional application No. 60/881,611 filed on January 22, 2007. A review of the application confirms that on filing the application included a claim under § 1.78 to the prior-filed provisional application. The petition includes payment of the petition fee. Moreover, petitioner has supplied a copy of the prior application, identified where the drawings can be found in the provisional application and provided the omitted sheets of drawings.

However, the petition cannot be granted because petitioner has not provided an amendment submitting the omitted material and requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application pursuant to 37 CFR 1.57(a) as required. In order for the omitted material to be included in the application, and hence considered to be part of the disclosure, the application must be amended to include the omitted portion. 37 CFR 1.57(a)(3) provides that where, as here, an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). This requires that applicants submit both a petition under 1.57(a)(and petition fee) and an amendment pursuant to 37 CFR 1.57(a). (If the application were entitled to a filing

date, applicants could respond with just the filing of an amendment pursuant to 37 CFR 1.57(a)).

Further, applicants should state that the drawings were inadvertently omitted. Applicants' arguments on petition support a conclusion that the drawings were intended to be filed, but were inadvertently omitted. However, rule 57 is limited in its application to inadvertent omissions. Thus, it is appropriate to request that applicants expressly state that the omission of the three sheets of drawings resubmitted on petition was inadvertent. Regardless of whether such a statement is made, applicants are reminded that submission of the amendment to add the omitted material pursuant to § 1.57(a), will constitute a certification under § 10.18(b) that the omission was inadvertent. See Response to Comment 44 at *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule*, 69 FR 56481, 56503 (September 21, 2004).

Finally, the benefit claim is a limited incorporation by reference of the prior-filed application as to inadvertently omitted material contained in the prior-filed application. The rule is limited to inadvertently omitted material that is expressly, as opposed to implicitly, disclosed in the prior application. Applicants have provided the drawings as expressly contained in the prior-filed provisional application, as well as, "new clean drawings" of the original drawings. The new clean drawings are changes to the application drawings as incorporated by reference from the prior-filed provisional application. However, the new clean drawings are not identified as replacement sheets. Applicants are reminded that

> Any changes to an application drawing must comply with 37 CFR 1.84 and must be submitted on a replacement sheet of drawings, even when applicant is only submitting better quality drawings without any substantive changes. See MPEP 714.

The amendment under 37 CFR 1.57(a) is to be directed to the drawings as expressly contained in the prior-filed application. The "new clean drawings" are to be submitted in compliance with 37 CFR 1.84 and 1.121(d) and MPEP 714 as replacement sheets of drawings.

In view thereof, the petition under 37 CFR 1.57(a) must be dismissed.

On request for reconsideration, applicants need to correct the following discrepancies, detailed above:

- provide an amendment pursuant to 37 CFR 1.57(a);
- state that the drawings were inadvertently omitted;
- submit the replacement sheets of drawings in compliance with 37 CFR 1.84 and 1.121(d).

It is recognized that this application as filed included a statement that this application "incorporates by reference" the prior-filed provisional application. Thus, applicants may respond to this decision with an amendment based on the explicit incorporation by reference pursuant to 37 CFR 1.182 to amend the application to include the drawings present in the provisional application, regardless of whether the omission was inadvertent. Nonetheless, the new clean drawings must be submitted in compliance with 37 CFR 1.84.

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

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

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

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

Registered users of EFS-Web may alternatively submit their response to this decision via EFS-Web.

Telephone inquiries related to this decision may be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Anthony Knight
Supervisor
Office of Petitions

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Paper No.

J. Gary Mohr
3 Lisa Lane
Goshen NY 10924

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MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Pitman et al. : DECISION ON PETITION
Application No. 12/009,462 :
Deposited: January 19, 2008 :
Atty Docket No. Mascaritola 1 :

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.57(A)" filed January 23, 2009, requesting that the above-referenced application be accorded a filing date of January 19, 2008.

The renewed petition is **GRANTED**.

Application papers in the above-identified application were deposited on January 19, 2008. In response to the NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION mailed February 11, 2008, advising applicants that the application was deposited without drawings and not entitled to a filing date, applicants filed the initial petition. By decision mailed November 24, 2008, the petition was dismissed. Applicants failed to submit convincing evidence that the missing drawings were present in the application on filing. Applicants established that the drawings could be considered incorporated by reference pursuant to 37 CFR 1.57(a) or 37 CFR 1.182, and met the requirements of §§ 1.57(a) and 1.182, except applicants did not submit the requirement amendment under 37 CFR 1.57(a) (or 1.182) to enter the omitted drawings.

On instant renewed petition, applicants filed an amendment under 37 CFR 1.57(a) directed to the amendment of the specification to include the (3) sheets of drawings as contained in the prior-filed provisional application. In addition, applicants

submitted (6) sheets of "new clean drawings" in compliance with 37 CFR 1.84 and 1.121(d) and MPEP 714 as replacement sheets of drawings. All requirements of 37 CFR 1.57(a) have now been met.

Thus, pursuant to 1.57, the application as filed is considered to have incorporated by reference the prior-filed application as to the inadvertently omitted drawings.

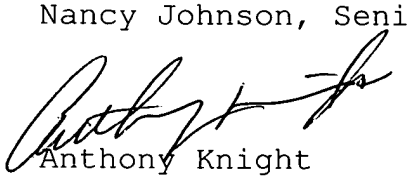
In view thereof, the petition is granted. Receipt of the petition fee of $400 on initial petition is acknowledged.

The application is being forwarded to the Office of Patent Application Processing for

- according of a filing date of January 19, 2008, as an application claiming the benefit of provisional application No. 60/881,611, including the copy of the (3) drawing sheets from the prior application supplied on January 23, 2009 (It is noted that (6) replacement sheets of drawings were also filed).

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

Telephone inquiries related to this decision may be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.



Anthony Knight
Supervisor
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD, CT 06103

MAILED

MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Mathias Belz :
Application No. 12/009,492 : DECISION ON PETITION
Filed: January 18, 2008 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. WIN/133/US :

This is a decision in response to the Petition to Correct Filing Receipt filed January 21, 2009, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

The petition lacks items 2 and 3 above.

Before a petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) must be filed, including an appropriate statement regarding the delay and the the $1,410 surcharge.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
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)

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

THOMAS SPINELLI
2 SIPALA COURT
EAST NORTHPORT NY 11731

COPY MAILED

DEC 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Rastegar, et al.	:	
Application No. 12/009,533	:	ON PETITION
Filed: January 19, 2008	:	
Attorney Docket No. 10017A	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 2, 2008.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the Notice to File Missing Parts mailed February 12, 2008. This Notice set an extendable period for reply of two (2) months for applicants to submit $105 for 3 independent claims over 3. No reply having been received, the application became abandoned on April 13, 2008. The Office mailed a Notice of Abandonment on October 20, 2008.

Petitioner argues that he did timely file a reply on April 13, 2008 (made timely because April 12, 2008 fell on a Saturday). In support thereof, petitioner has included a copy of the reply, bearing a Certificate of Transmission dated April 13, 2008.

However, as there is no evidence that the Office actually charged petitioner's credit card the $105 fee, on request for reconsideration, petitioner must submit the $105 fee.[1]

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[1] The copy of the credit card form submitted on petition was not able to be processed, as it bore an expiration date of September, 2008.

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FEB 2 4 2009

OFFICE OF PETITIONS

THOMAS SPINELLI
2 SIPALA COURT
EAST NORTHPORT NY 11731

In re Application of :
Rastegar, et al. :
Application No. 12/009,533 : ON PETITION
Filed: January 19, 2008 :
Attorney Docket No. 10017A :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 31, 2009.

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

AThe above-identified application became abandoned for failure to timely file a response to the Notice to File Missing Parts mailed February 12, 2008. This Notice set an extendable period for reply of two (2) months for applicants to submit $105 for 3 independent claims over 3. No reply having been received, the application became abandoned on April 13, 2008. The Office mailed a Notice of Abandonment on October 20, 2008. Applicants filed a petition to withdraw the holding of abandonment on November 2, 2008, arguing that they timely filed a reply on April 13, 2008 (April 12, 2008 fell on a Sunday). The Office mailed a decision dismissing the petition on December 4, 2008. The decision agreed that applicants had demonstrated that a reply was timely filed. However, the decision pointed out that the Office still needed the $105 fee, as applicants had not submitted any evidence that the Office charged the fee to their credit card.

With the instant renewed petition, applicants have submitted the $105 for 3 independent claims over 3.

The file is being forwarded to the Office of Patent Application Processing for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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APR 10 2008

OFFICE OF PETITIONS

In re Application of :
Stepanauskas et al. :
Application Number: 12/009582 :
Filing Date: 01/18/2008 :
Attorney Docket Number: :
1113.70001US00 :

ON PETITION

This is a decision on the petition, filed on March 20, 2008, which is treated as a petition requesting that the above-identified application, without drawings, be accorded a filing date of January 18, 2008.

The petition is **GRANTED**.

The application was filed on January 18, 2008, without drawings.[1] Accordingly, on March 6, 2008, the Office of Patent Application Processing (OPAP) mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. A declaration in compliance with 37 CFR 1.63 was also required.

In response, on March 20, 2008, the present petition was filed. Petitioner concedes that the drawings were not present among the application papers filed on January 18, 2008, but assert that drawings are not necessary for an understanding of the subject matter sought to be patented.

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).[2] A review of the record reveals that the application as filed contains at least one method claim. Therefore, the present application is deemed to be an application which does not require a drawing for an

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."
[2] MPEP 601.01(f).

understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted with the present petition is unnecessary and will be refunded.

The "Notice of Incomplete Nonprovisional Application" mailed on March 6, 2008, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete.

The application will be processed and examined using the application papers filed on January 18, 2008.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of January 18, 2008, using only the application papers filed on that date, and for an indication in Office records that no (0) drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Dennis Theodore Krizan
6018 W. National Avenue
West Allis WI 58214

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of	:	
KRIZAN et al.	:	WITHDRAWAL
Application No. 12/009,593	:	OF
Filed: January 22, 2008	:	ABANDONMENT
Attorney Docket No.: N/A	:	

The above-identified application is before the Office of Petitions for consideration of issues surrounding the mailing of the Notice of Abandonment on October 31, 2008.

RELEVANT BACKGROUND

On January 22, 2008, the present application was filed with the United States Patent and Trademark Office (USPTO).

A Notice of Missing Parts of Nonprovisional Application (Notice of Missing Parts) was subsequently mailed on March 17, 2008. The Notice of Missing Parts set forth an extendable two-month time period for reply, notified applicants that the "compact disc filed in the application contained non-ASCII files", and required applicants to:

> "submit: (1) a replacement compact disk containing all of the files listed in the specification in ASCII format, and a duplicate copy of the replacement compact disc, in compliance with 37 CFR 1.52(e); (2) a statement that the two compact discs are identical; and (3) a statement that the replacement compact disc contains no new matter (see 37 CFR 1.52(e)(4))."

On May 15, 2008, a first response to the Notice of Missing Parts was timely filed, which included "two replacement compact discs" and a statement that such discs "are identical and contain no new matter."

On June 12, 2008, a first Notice of Incomplete Reply was mailed informing applicants that the May 15, 2008 response was incomplete in that the replacement compact discs submitted there with contained non-ASCII files. This first Notice of Incomplete Reply informed applicants that the extendable two-month time period set forth in the Notice of Missing Parts continued to run from its March 17, 2008 mailing date.

On July 2, 2008, applicants filed a second response to the Notice of Missing Parts. This second response included "two replacement compact discs", a statement that such replacement discs "are identical and contain no mew matter," and a petition for a two month extension of time. The petition for the two month extension of time included the $230.00 extension of time fee in the collective form of (1) information that a $60.00 check, i.e., check number 7327, had been previously submitted on May 31, 2008 and (2) a check for $170.00, i.e., check number 7329, to cover the $170.00 unpaid balance for a two month extension of time. The USPTO found no problems with the replacement compact discs of this second response.

On September 8, 2008, the USPTO mailed second Notice of Incomplete Reply notifying applicants that their "reply to the notice mailed on 03/17, 2008 was received...on 07/02/2008..after the expiration of the period for reply set forth in the Notice." The second Notice of Incomplete Reply also informed applicants that "[t]he application will become **abandoned** unless applicant obtains an extension of the period for reply" and that the "[l]ast date that extension may be obtained" is "12/15/2008". No mention was made, in the second Notice of Incomplete Reply, to the petition for a two month extension filed July 2, 2008 and fees submitted concurrently therewith and previously on May 31, 2008.

On September 11, 2008, applicants filed a letter in response to the second Notice of Incomplete Reply that stated, in part, that:

> "I've noticed the 'Notice to file missing parts of nonprovisional application' dated: 3/17/08 that shows that I had 2 months from this date, this would be the beginning of the first month of paid extension starting at 5/17/08 to 6/17/08, month two would be 6/17/08 to 7/17/08, the info needed was received by the USPTO and entered into record on 7/02/08 falling w/in the second paid month time period. Which was paid 06/28/08 entered into record on 07/02/08, copy attached."

A second letter dated "September 15, 2008", substantially identical to the letter filed September 11, 2008, was also submitted.

On September 22, 2008, applicants submitted a third letter, accompanied by copies of the front side of applicants' checks numbered 7321, 7324, 7326, and 7327, which stated, in part, that:

> "[c]opy attached of bank statement showing the $60 payment on 05/31/2008 to bring the two month extension of time too [sic] $230 or paid in full. For some reason the money and extension were never posted to my account."

On October 31, 2008, a Notice of Abandonment was mailed that notified applicants that the application was "abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/17/2008" and that "[t]he reply received on 07/17/2008 was untimely."

On November 4, 2008, applicants' filed a copy of the front and back of their check number 7327 dated "5/31/2008" for the amount of $60.00. This copy of check number 7327 appears to be consistent with the copy of check number 7327 submitted by applicants on September 22, 2008 and previously discussed as earlier as July 2, 2008 as having been submitted on May 31, 2008. The copy of the back side of the check includes processing information that strongly evidences that the USPTO received the original check numbered 7327 for $60.00 and subsequently processed the check on June 4, 2008. A review of USPTO records reveals that the $60.00 check of May 31, 2008, processed by the USPTO on June 2, 2008, was erroneously not recorded in the application record.

DISCUSSION

The documentary evidence of record is sufficient to establish, with reasonable certainty, that applicants' second response to the May 15, 2008 Notice of Missing Parts, filed on July 2, 2008, which was filed in response to the first Notice of Incomplete Reply mailed by the USPTO on June 12, 2008, taken together with the (1) "two replacement compact discs", (2) the statement that such replacement discs were "identical and contain no new matter," (3) the petition for a two month extension of time, and (4) payment of the requisite $230.00 extension of time fee (the $60.00 check (check number 7327) processed by the USPTO on June 4, 2008 and the $170.00 check (check number 7329) submitted on July 2, constitute a complete and timely response to the May 15, 2008 Notice to file Missing Parts.

On this basis, it is appropriate to withdraw the October 31, 2008 Notice of Abandonment and refer the application to the Office of Patent Application Processing (OPAP) for continued processing.

CONCLUSION

The Notice of Abandonment mailed November 31, 2008 is hereby **WITHDRAWN**.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

This application is being forwarded to the OPAP for continued processing in accordance with this decision, including entry of all appropriate papers and fees into the application filed record, including the $60.00 fee (Fee Code 2252) of May 31, 2008 processed by the USPTO on June 4, 2008.

Brian W. Brown
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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APR 20 2010

OFFICE OF PETITIONS

In re Application of :
Sabatier et al. : DECISION ON PETITION
Application No. 12/009,675 :
Filed: January 22, 2008 :
Atty Docket No. 50538/002002 :

This is a decision on the PETITION TO REVIVE APPLICATION UNDER 37 C.F.R. § 1.137(b) filed February 25, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement sent July 15, 2009. This Office action set a shortened statutory period for reply of one (1) month, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective August 16, 2009. A courtesy Notice of Abandonment was mailed on February 17, 2010.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 1654 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the election submitted on petition filed February 25, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MARSHALL & MELHORN, LLC
FOUR SEAGATE
8TH FLOOR
TOLEDO, OH 43804

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OCT 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Marando et al.	:	
Application No. 12/009,676	:	ON PETITION
Filed: January 22, 2008	:	
Attorney Docket No. 1-18863	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed July 17, 2009, to accept an unintentionally delayed corrected claim under 35 U.S.C. §§ 120 for the benefit of prior-filed nonprovisional Application No. 10/758,946, filed January 16, 2004.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

However, a petition under 37 CFR 1.78(a)(3) and the surcharge would not be required for correcting a timely submitted benefit claim for the following situations:

(A) Changing the relationship of the applications (e.g., changing from "continuation" or "divisional" to "continuation-in-part" or from "continuation-in-part" to "continuation" or "divisional");

(B) Changing the filing date of a prior-filed nonprovisional or provisional application; and

(C) Changing a benefit claim of a prior-filed provisional application under 35 U.S.C. 120 (e.g., "This application is a continuation of prior-filed provisional application No. ---") to a benefit claim of the same provisional application under 35 U.S.C. 119(e) (e.g., "This application claims the benefit of prior-filed provisional application No. ---") during the pendency of the later-filed application. Note, however: If the later-filed application has issued as a patent, the correction cannot be made by a certificate of correction and would not be effective in a reissue application because the term of a patent is measured from the prior application's filing date and removing the benefit claim under 35 U.S.C. 120, 121, or 365(c) would have the effect of lengthening the term of the patent.

Since the petitioner is only changing the relationship of Application No. 10/758,946, filed January 16, 2004, from "divisional" to "continuation," therefore according to (A) listed above the petition is unnecessary.

In view of the above, the $1,410 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

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

Any questions concerning this decision on petition may be directed to Alicia Kelley at (571) 272-6059. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 3726 for appropriate action on the amendment filed July 17, 2009, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed applications.

/Liana Walsh/
Liana Walsh
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
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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
12/009,676	01/22/2008	3726	1030	1-18863	16	2

CONFIRMATION NO. 4607

CORRECTED FILING RECEIPT

68459
MARSHALL & MELHORN, LLC
FOUR SEAGATE
8TH FLOOR
TOLEDO, OH 43804

OC00000038294171

Date Mailed: 10/15/2009

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

Applicant(s)

Richard A. Marando, Mohrsville, PA;
Scott M. McGill, Kenilworth, PA;
Jason A. Poirier, Ballston Spa, NY;
Andrew R. Simboli, Tucson, AZ;

Power of Attorney: The patent practitioners associated with Customer Number 0068459

Domestic Priority data as claimed by applicant

This application is a CON of 10/758,946 01/16/2004 PAT 7,322,106
which claims benefit of 60/440,573 01/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/09/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/009,676**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cast aluminum node for connecting vehicle frame members and method of manufacturing same

Preliminary Class

029

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,762	01/22/2008	Phyllis Balbosa	PJB 08019	6068

7590 06/18/2010

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

EXAMINER	
COLLADO, CYNTHIA FRANCISCA	
ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
06/18/2010	PAPER

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

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

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Ray & Associates
2640 Pitcairn Road
Monroeville PA 15146

In re Application of:
BALBOSA, PHYLLIS
Serial No.: 12/009,762
Filed: Jan. 22, 2008
Docket: PJB 08019
Title: SANITARY PROTECTIVE COVER FOR APPLIANCE HANDLE

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on June 15, 2010 seeking withdrawal of the finality of the Office action mailed April 5, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the June 15, 2010 petition, the petitioner requests the finality of the Office action of April 5, 2010 be reconsidered and withdrawn because the applicant believes that the final rejection of April 5, 2010 was premature. In particular, petitioner believes that the deletion of functional statements in claim 8 would resolve a potential 35 USC 112 issue. The broadening of claim 8 would not necessitate any new grounds of rejection.

A review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of April 5, 2010. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of April 5, 2010 will not be granted.

For reason as stated above, petitioner's request to withdraw the finality of the Office action dated April 5, 2010 is dismissed as untimely.

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The application is being forwarded to the examiner via the SPE of Art Unit 3781 for consideration of Rule 116 amendment filed on June 15, 2010. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Iandiorio & Teska
260 Bear Hill Road
Waltham MA 02451-1018

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Chen :
Filed: January 22, 2008 : ON PETITION
Application No. 12/009,765 :
Atty. Dkt. No.: AD-533J :

This decision is in response to the "PETITION TO ACCORD DATE OF DEPOSIT PURSUANT TO 37 CFR § 1.182," filed May 15, 2008. This matter is being properly treated as a petition to accord the above-identified application a filing date of January 22, 2008 with Figure 3 as part of the disclosure of originally filed application.

The Notice of Omitted Items in a Nonprovisional Application (Notice) mailed February 19, 2008 indicated that the instant application had been accorded a filing date, but that Figure 3 appeared to have been omitted from the specification as filed.

In response, petitioner argues that the application as deposited included four sheets of drawings, including Figure 3, and have presented as proof of mailing and proof of receipt of Figure 3 a return postcard date stamped by the Office on January 22, 2008. A copy of Figure 3 purportedly filed with the application on January 22, 2008 was submitted herewith.

The original page containing Figure 3 has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of January 22, 2008 with Figure 3 as part of the disclosure of invention is **GRANTED**.

Since the original Figure 3 cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. A refund will issue in due course.

This application will be returned to the Office of Patent Application Processing for further processing with a filing date of JANUARY 22, 2008 with Figure 3 as part of the application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SASTRY K. GANTI
1074 CROFTON LANE
BUFFALO GROVE IL 60089-4114

COPY MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Sastry K. GANTI	:	
Application No. 12/009,794	:	DECISION ON PETITION
Filed: January 23, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. GANTI-BOTL	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 29, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being returned to Technology Center Art Unit 3742 for action on the merits commensurate with this decision.

/Diane C. Goodwyn/
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
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PATRICK J. WALSH, ESQ.
400 MAIN STREET
STAMFORD, CT 06901

COPY MAILED

MAY 21 2008

OFFICE OF PETITIONS

In re Application of :
REICHBORN, Per K. :
Application No. 12/009,797 : DECISION ON PETITION
Filed: January 22, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 18, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3781 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kucera, et al.	:	
Application No. 12/009,828	:	DECISION ACCORDING STATUS
Filed: January 22, 2008	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. LONGWO 3.0-058	:	

This is in response to the petition under 37 CFR 1.47(a), filed September 15, 2008.

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

On petition, petitioner has established that inventor Hartnett has refused to sign the application papers. Specifically, petitioner has attested that a copy of the application papers was mailed to Hartnett on August 1, 2008, but as of the mail date of this decision, no executed declaration has been received. In support thereof, petitioner has included a copy of a transmittal letter, transmitting the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $200 has been charged to Deposit Account No. 12-1095, as authorized.

The matter is being forwarded to Group Art Unit 3725 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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KEVIN HARTNETT
3 SUSSEX AVE
CHATHAM NJ 07928

COPY MAILED

OCT 31 2008

OFFICE OF PETITIONS

In re Application of
Kucera, et al.
Application No. 12/009,828
Filed: January 22, 2008
Title: Tabbed Divider Making Apparatus and Method

LETTER

Dear Mr. Hartnett:

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

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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OCT 0 1 2009

OFFICE OF PETITIONS

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

In re Application of :
Norival R. Figueira et al :
Application No. 12/009,833 : DECISION ON PETITION
Filed: January 22, 2008 : TO WITHDRAW
Attorney Docket No. HAMMP015 : 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 Lee Van Pelt on behalf of the practitioners of record who are associated with Customer No. 21912.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Norival R. Figueira
640 Clyde Court
Mountain View, CA 94043

cc: Greg Leitich
804 Baylor Street
Austin, TX 78703

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/009,833	01/22/2008	Norival R. Figueira	HAMMP015

CONFIRMATION NO. 5860

21912
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

POWER OF ATTORNEY NOTICE

OC00000037923773

Date Mailed: 10/01/2009

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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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/009,833	01/22/2008	Norival R. Figueira	HAMMP015

CONFIRMATION NO. 5860

Norival R. Figueira
640 Clyde Court
Mountain View, CA 94043

POA ACCEPTANCE LETTER

OC00000037923842

Date Mailed: 10/01/2009

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

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.
12/009,848	01/22/2008	Christian Henrich	MB 680	5867

7590 09/14/2009

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

EXAMINER	
KAMEN, NOAH P	

ART UNIT	PAPER NUMBER
3741	

MAIL DATE	DELIVERY MODE
09/14/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment Date: 09/14/2009 BPOWELL
05/22/2008 STECLEI 00000023 500465 12009848
02 FC:1115 510.00 CR

Adjustment Date: 09/14/2009 BPOWELL
05/22/2008 STECLEI 00000023 500465 12009848
02 FC:1115 510.00 CR

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United States Patent and Trademark Office
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HARVEY E. FIALA
7205 SHADYOAK DRIVE
DOWNEY CA 90240

COPY MAILED
SEP 26 2008

In re Application of :
FIALA, et al. :
Application No. 12/009,852 : DECISION ON PETITION TO MAKE
Filed: January 22, 2008 : SPECIAL UNDER 37 CFR 1.102(c)(1)
Attorney Docket No. :
:

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 the statement and birth certificate of inventor Harvey E. Fiala, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 3682 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HARVEY E. FIALA
7205 SHADYOAK DRIVE
DOWNEY, CA 90240

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FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of

Harvey E. **FIALA, et al.**
Application No. 12/009,852
Filed: January 22, 2008
Attorney Docket No.

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED** as moot.

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.

A petition under 37 CFR 1.102(c)(1) previously filed September 9, 2008 was granted on September 26, 2008. Accordingly, the above-identified application has been accorded "special" status.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3600.

/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

HARVEY E. FIALA
7205 SHADYOAK DRIVE
DOWNEY, CA 90240

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MAR 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Harvey E. **FIALA, et al.** :
Application No. 12/009,852 : DECISION ON PETITION
Filed: January 22, 2008 : 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 February 23, 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 of inventor Harvey E. Fiala, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 3644 for action on the merits commensurate with this decision.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

LEYDIG VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

COPY MAILED

JAN 16 2009

OFFICE OF PETITIONS

In re Application of :
Michael S. O'Brien :
Application No. 12/009,870 :
Filed: January 23, 2008 :
Attorney Docket No.: 261934 :
Title: AIR ATOMIZING SPRAY :
NOZZLE WITH MAGNETICALLY :
ACTUATED SHUTOFF VALVE :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.182

This is a decision on the petition filed April 25, 2008, requesting that the above-identified application, including Figures 4-7, be accorded a filing date of January 23, 2008 as part of the original disclosure.

The application was deposited on January 23, 2008. However, on February 19, 2008, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating, *inter alia*, that the application had been accorded a filing date, and advising applicants that

Figures 4-7 appeared to have been omitted on filing. The notice set a two-month period for reply.

In response, on April 25, 2008, Applicants filed this petition. The petition is further accompanied by, *inter alia*, the petition fee, a copy of Figures 4-7, and a copy of Applicants' postcard receipt acknowledging receipt of "Drawings. Total pages 3" in the United States Patent and Trademark Office (Office) on January 23, 2008. Applicants request that Figures 4-7 be accorded a filing date of January 23, 2008.

Upon review of the electronic file, 1 sheet of drawings has been located, containing Figures 1-3. Figures 4-7 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 23, 2008 included 3 drawing sheets containing Figures 1-7, and the second and third sheets (containing Figures 4-7) were subsequently misplaced in the Office.

Therefore, the application, including Figures 4-7, was complete on filing and entitled to a filing date of January 23, 2008 as part of the original disclosure.

Accordingly, the petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**.

The portion of the notice mailed February 19, 2008 which refers to the omitted drawings was sent in error, and that portion is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be credited to Petitioner's Deposit Account in due course.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing (OPAP) for:

- Processing the application with a filing date of January 23, 2008, using the original application papers filed on that date, as well as Figures 4-7 submitted on April 25, 2008, and;
- noting in Office records that Figures 4-7 were present on filing.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of :

Santiago Ini, et al. :
Application No. 12/009,876 : DECISION ON PETITION
Filed: January 22, 2008 : TO WITHDRAW
Attorney Docket No. 1662/A409US1 : 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 May 5, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Choate, Hall & Stewart 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **KENYON & KENYON LLP**
ONE BROADWAY
NEW YORK NY 10004

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UNITED STATES DEPARTMENT OF COMMERCE
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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: Michael W. Bogart	: DECISION ON REQUEST FOR
Patent Number	: 7634933	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/009,886	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of
GARCIA-MARTINEZ, Javier et al.
Application No. 12/009,894
Filed: January 23, 2008
Attorney Docket No. **RIV-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 April 24, 2009.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to PROSKAUER ROSE LLP has been revoked by the assignee of the patent application on April 30, 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: **HOVEY WILLIAMS LLP**
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK KS 66210

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Stephen Cabot Metcalf	: DECISION ON REQUEST FOR
Patent Number	: 7665199	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/009,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROBERT L. RISPOLI
PRECISION COMBUSTION, INC.
410 SACKETT POINT ROAD
NORTH HAVEN, CT 06473

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MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of :
PFEFFERLE, William C. :
Application No. 12/009,949 : DECISION ON PETITION
Filed: January 23, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **MOI 313** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by William C. Pfefferle attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3676 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ILYA ZBOROVSKY
ELY ZBOROVSKY PATENT BUR
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Alex Cooper, et al. :
Application No. 12/009,981 :
Filed: January 24, 2008 :
Attorney Docket No. :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant Alex Cooper'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 Patent Application Papers for pre-examination processing. This application will be accorded "special" status once pre-examination processing is complete.

April M. Wise
Petitions Examiner
Office of Petitions

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IIYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Alex COOPER, et al :
Application No. 12/009,981 : DECISION ON PETITION
Filed: January 24, 2008 : 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 January 21, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Applicant Alex Cooper drivers license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3700.

The application is being forwarded to Technology Center Art Unit 3727 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 26, 2009

TO SPE OF : ART UNIT 2883
SUBJECT : Request for Certificate of Correction for Appl. No.: 12/009984 / 7456408

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2883
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/23/2010

Applicant	: Shun-Min Chen	: DECISION ON REQUEST FOR
Patent Number	: 7635159	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/010,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **70** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ARLINGTON VA 22203

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MAR 31 2008

OFFICE OF PETITIONS

In re Application of	:	
Yabuki, et al.	:	
Application No. 12/010,032	:	DECISION GRANTING PETITION
Filed: January 18, 2008	:	
Attorney Docket No. MEN-723-2292	:	

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION", filed February 25, 2008, to accord the above identified application a filing date of January 18, 2008, with page 29 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on January 18, 2008. However, on February 1, 2008, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application". Applicants were informed that the application had been accorded a filing date; however, page 29 of the specification appeared to have been omitted.

In response, applicant filed the present petition, asserting that page 29 of the specification was included with the application as filed. In support thereof, applicants included a postcard receipt identifying the application, itemizing "75 Pages Specification, Claims, & Abstract" as enclosed, and bearing a USPTO date stamp of January 18, 2008.

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 on the date stamped thereon by the Office.[1]

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 18, 2008, using the application papers received in the Office on that date and page 29 of the specification, filed with the petition on February 25, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] See MPEP 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANLEY P. FISHER
REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042-4503

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Kurokawa, et al. :
Application No. 12/010,047 : DECISION
Filed/Deposited: 18 January, 2008 :
Attorney Docket No. TMIA.0094 :

This is a decision on the petition filed on 20 May, 2008, seeking to have accorded a filing date of 18 January, 2008, for FIG. 23 described in the specification of the above-identified application, and more properly considered under 37 C.F.R. §1.57(a), based on the inadvertently omitted drawings averred to have been present in the prior-filed foreign application to which this application claimed benefit on filing under 37 C.F.R. §1.55.

For the reasons stated herein, the petition is **DISMISSED**.

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to correct the below-noted deficiencies, including supplying an amendment in compliance with §1.57 and §1.121 or otherwise, properly respond. This period is not extendable. See 37 C.F.R. §1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.57(a)."

Application papers in the above-identified application were deposited on 18 January, 2008.

On 28 February, 2008, the Office mailed a Notice of Omitted Items and indicated therein that the application had been accorded a filing date, however, FIG. 23, as described in the specification was omitted from the papers deposited on 18 January, 2008.

Thus, the application was granted a filing date, but without FIG. 23.

In response, on 5 May, 2008, Petitioner filed a petition with fee, with, *inter alia*:

- what is averred to be a certified a copy of Japanese Application No. 2007-207232, filed on 8 August, 2007, to which priority is claimed; and

- what is averred to be a true copy of the FIG. 23 described in the specification and omitted on deposit of the application.

Petitioner has provided no:

- certified translation of the Japanese Application No. 2007-207232, filed on 8 August, 2007, to which priority is claimed and which application is in a language other than English;

- preliminary amendment seeking to incorporate the previously omitted drawing by virtue of the priority is claimed to Japanese Application No. 2007-207232, filed on 8 August, 2007.

Consideration turns to the merits of the §1.57 petition.

The regulations at 37 C.F.R. §1.57 provide that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under §1.55 for priority of a prior-filed foreign application, or a claim under §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under §1.55 or §1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> > (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by §1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
> >
> > (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. §111;
> >
> > (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.
>
> ***
>
> (3) If an application is not otherwise entitled to a filing date under §1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(f).

The instant application was filed after September 21, 2004, and thus, the provisions of 37 C.F.R. §1.57(a) are applicable.

Petitioner seeks relief under the provisions of 37 C.F.R. §1.57(a), but fails to comply with the requirement set forth at §1.57(a)(1)(ii), to wit:

> ***
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by §1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
>
> ***
>
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English;
>
> ***

Thus, the petition cannot be granted because Petitioner failed to submit the required:

- Amendment; and
- the certified translation of Japanese Application No. 2007-207232, filed on 8 August, 2007 to which priority is claimed and which is in a language other than English..

In view thereof, the petition must be **dismissed**.

Petitioner should note that a filing date has been granted and the application includes an express incorporation by reference of Japanese Application No. 2006-240248. Thus Petitioner is entitled to submit an amendment in accordance with 37 C.F.R. §1.57(b). (*See*: MPEP 201.06(c)(IV).) No fee is necessary for such an amendment, which will be considered by the Examiner.

Alternatively, further correspondence with respect to this decision should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Registered users of EFS-Web may alternatively submit their response to this decision via EFS-Web.

Telephone inquiries concerning this matter should be directed to John J. Gilllon, Jr., attorney, at (571) 272-3214.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANLEY P. FISHER
REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042-4503

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Kurokawa, et al.	:	
Application No. 12/010,047	:	DECISION
Filed/Deposited: 18 January, 2008	:	
Attorney Docket No. TMIA.0094	:	

This is a decision on the petition filed on 22 May, 2009, seeking to have accorded a filing date of 18 January, 2008, for FIG. 23 described in the specification of the above-identified application, and more properly considered under 37 C.F.R. §1.57(a), based on the inadvertently omitted drawings averred to have been present in the prior-filed foreign application to which this application claimed benefit on filing under 37 C.F.R. §1.55.

For the reasons stated herein, the petition is **GRANTED**.

Application papers in the above-identified application were deposited on 18 January, 2008.

On 28 February, 2008, the Office mailed a Notice of Omitted Items and indicated therein that the application had been accorded a filing date, however, FIG. 23, as described in the specification was omitted from the papers deposited on 18 January, 2008.

Thus, the application was granted a filing date, but without FIG. 23.

In response, on 5 May, 2008, Petitioner filed a petition with fee, with, *inter alia*:

- what is averred to be a certified a copy of Japanese Application No. 2007-207232, filed on 8 August, 2007, to which priority is claimed; and

- what is averred to be a true copy of the FIG. 23 described in the specification and omitted on deposit of the application.

Because Petitioner provided no certified translation of the Japanese Application No. 2007-207232, filed on 8 August, 2007, to which priority was claimed and which application is in a language other than English, and preliminary amendment seeking to incorporate the previously omitted drawing by virtue of the priority claimed to Japanese Application No. 2007-207232, filed on 8 August, 2007, thus the petition was dismissed on 23 March, 2009.

On 22 May, Petitioner submitted a petition pursuant to 37 C.F.R. §1.57, with a translation of the Japanese application and certification of its accuracy, as well as an amendment as required.

Consideration turns to the merits of the §1.57 petition.

The regulations at 37 C.F.R. §1.57 provide that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under §1.55 for priority of a prior-filed foreign application, or a claim under §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under §1.55 or §1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> > (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by §1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
> >
> > (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. §111;
> >
> > (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
> >
> > (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.
> >
> > ***
> >
> > (3) If an application is not otherwise entitled to a filing date under §1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(f).

The instant application was filed after September 21, 2004, and thus, the provisions of 37 C.F.R. §1.57(a) are applicable.

ANALYSIS

Petitioner has included a proper priority claim the prior filed Japanese Application No. 2007-207232, filed on 8 August, 2007, to which priority is claimed in the specification filed with the application papers on 18 January, 2008. Therefore, based upon applicant's incorporation by reference of the contents of the foreign-filed application on filing of the present application, a filing date of 18 January, 2008, may be accorded the present application, including drawing FIG. 23. A preliminary amendment to add the inadvertently omitted material is required and appears to have been filed on 22 May, 2009.

CONCLUSION

Accordingly, the petitions are **granted**.

This application is being forwarded to the Office of Patent Application Processing (OPAP) formerly Office of Initial Patent Examination (OIPE), for further processing, with the filing date of 18 January, 2008, including drawing FIG. 23, using the application papers present on that date, and drawings/figure and preliminary amendment submitted on 22 May, 2009.

Any questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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ROBERT E. BUSHNELL
1522 K Street, N.W.
Suite 300
Washington, DC 20005-1202

MAY 13 2008

In re Application of	:	DECISION ON REQUEST TO
Sang-Won BYUN et al.	:	PARTICIPATE IN PATENT
Application No. 12/010083	:	PROSECUTION HIGHWAY
Filed: January 18, 2008	:	PILOT PROGRAM AND PETITION
Attorney Docket No. P58614	:	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), and the preliminary amendment, filed April 25, 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 Korean Patent Office;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the Korean Patent Office 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 Korean Patent Office 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 Korean Patent Office 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 Korean examiner in the Korean Patent 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 fails because:

(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 Korean Patent Office application(s);

Claim 7 from the allowed Korean Patent Application differs from Claim 8 of the US Application because in Claim 7, line 10, the claim reads as "affixed to the cap plate..." where in Claim 8, line 11, the claim reads as "welded to the edge..." where "affixed" in the allowed Korean claim has been narrowed to "welded" in the US claim and "cap plate" in the allowed Korean claim has been changed to "edge" in the US claim; and

line 11, of the allowed Korean application differs from line 12 of the US claim because the allowed Korean claim reads as "the end of the first portion supporting..." where in line 12 of the US claim, the claim reads as "the first portion supporting..." where the US amended claim omits "the end of" which is included in the allowed Korean claim.

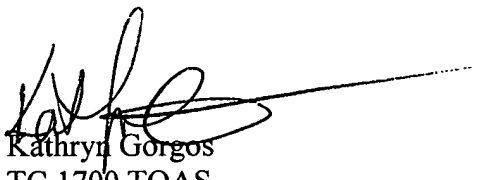
Claim 11 from the allowed Korean Patent Application differs from Claim 13 of the US Application because in Claim 11, line 7, the claim reads as "the lead tab affixed..." where in Claim 13, line 7, the claim reads as "the lead tab welded..." where "affixed" in the allowed Korean claim has been narrowed to "welded" in the US claim; and

lines 7-8 of the allowed Korean application differs from lines 7-8 of the US claim because the allowed Korean claim reads as "on an opposite side thereof..." where in the US claim, the claim reads as "on another side of the..." where the US amended claim broadens the location of where the lead tab is arranged.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to 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.



Kathryn Gorgos
TC 1700 TQAS

ROBERT E. BUSHNELL
1522 K Street, N.W.
Suite 300
Washington, DC 20005-1202

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 E. BUSHNELL
1522 K Street, N.W.
Suite 300
Washington, DC 20005-1202

JUL 31 2008

In re Application of	:	DECISION ON REQUEST TO
Sang-Won BYUN et al.	:	PARTICIPATE IN PATENT
Application No. 12/010083	:	PROSECUTION HIGHWAY
Filed: January 18, 2008	:	PILOT PROGRAM AND PETITION
Attorney Docket No. P58614	:	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), and the preliminary amendment, filed April 25, 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 Korean Patent Office;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the Korean Patent Office 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 Korean Patent Office 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 Korean Patent Office 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 Korean examiner in the Korean Patent 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 fails because:

(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 Korean Patent Office application(s);

Claim 7 from the allowed Korean Patent Application differs from Claim 8 of the US Application because in Claim 7, line 10, the claim reads as "affixed to the cap plate..." where in Claim 8, line 11, the claim reads as "welded to the edge..." where "affixed" in the allowed Korean claim has been narrowed to "welded" in the US claim and "cap plate" in the allowed Korean claim has been changed to "edge" in the US claim; and

line 11, of the allowed Korean application differs from line 12 of the US claim because the allowed Korean claim reads as "the end of the first portion supporting..." where in line 12 of the US claim, the claim reads as "the first portion supporting..." where the US amended claim omits "the end of" which is included in the allowed Korean claim.

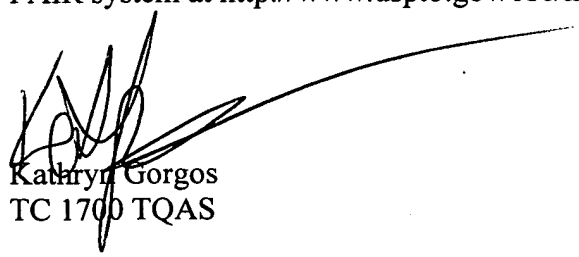
Claim 11 from the allowed Korean Patent Application differs from Claim 13 of the US Application because in Claim 11, line 7, the claim reads as "the lead tab affixed..." where in Claim 13, line 7, the claim reads as "the lead tab welded..." where "affixed" in the allowed Korean claim has been narrowed to "welded" in the US claim; and

lines 7-8 of the allowed Korean application differs from lines 7-8 of the US claim because the allowed Korean claim reads as "on an opposite side thereof..." where in the US claim, the claim reads as "on another side of the..." where the US amended claim broadens the location of where the lead tab is arranged.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to 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.



Kathryn Gorgos
TC 1700 TQAS

ROBERT E. BUSHNELL
1522 K Street, N.W.
Suite 300
Washington, DC 20005-1202

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Alexandria, VA 22313-1450
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AUG 2 5 2008

In re application of	:	DECISION ON REQUEST TO
Sang-Won Byun et al	:	PARTICIPATE IN PATENT
Serial No. 12/010,083	:	PROSECUTION HIGHWAY
Filed: January 18, 2008	:	PILOT PROGRAM AND
For: BATTERY MODULE AND ITS METHOD OF MANUFACTURE	:	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), and the preliminary amendment filed April 25, 2008, together with the second preliminary amendment, filed August 1, 2001 to make the above-identified application special.

The request and petition are **GRANTED**.

It is noted that applicant also filed a petition under 37 CFR 1.181, in which it is stated that the Decision on Petition mailed on May 13, 2008 was not received. As a copy of this petition decision was transmitted to petitioner via facsimile on July 31, 2008, this petition is dismissed as moot.

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 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 pilot 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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528 FALLSGROVE DRIVE
ROCKVILLE MD 20850

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JAN 13 2009

OFFICE OF PETITIONS

In re Application of :
Yi-Hung Shen, et. al. :
Application No. 12/010,095 : DECISION ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. TW-XNA-0693 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice), mailed February 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 April 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $330 for the filing fee, $130 for the surcharge fee, $540 for the search fee, and $220 for the examination fee, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In accordance with 37 CFR 1.34(a), the signature of Bruce H. Troxell appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. A courtesy copy of this decision will be mailed to the address on the petition.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Bruce H. Troxell
Troxell Law Office PLLC
5205 Leesburg Pike, Ste. 1404
Falls Church, VA 22041

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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Wan-Tien Chen :
Application No. 12/010,096 : DECISION ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. BHT/3092-801 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 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 February 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 April 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to the Office of Patent Application Papers for pre-examination processing of the reply received February 12, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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TROXELL LAW OFFICE PLLC
ONE SKYLINE PLACE
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 12/010,097 : ON PETITION
Filed: January 18, 2008 :
Attorney Docket No. BHT/3092-802 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 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 April 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee of $165, search fee of $270, examination fee of $110, and surcharge of $65, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (271) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

MAIL

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
HAYASHI, MICHITAKA
Application No. 12/010,110
Filed: January 22, 2008
Attorney Docket No. 01-1597

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 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:

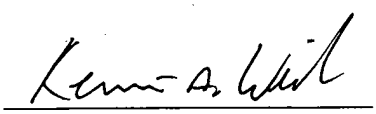
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation 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 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

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/03/2010

Applicant	: Albert Huang	: DECISION ON REQUEST FOR
Patent Number	: 7626482	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/010,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **131** 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.
12/010,161	01/22/2008	Akio Saiki	135365	4479

7590 02/24/2010

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
RODRIGUEZ, PAMELA	

ART UNIT	PAPER NUMBER
3657	

NOTIFICATION DATE	DELIVERY MODE
02/24/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/24/2010 NFARNER
01/23/2008 DEMANDI 00000055 12010161
02 FC:1111 -510.00 CP

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Shigeo Nakagawa	: DECISION ON REQUEST FOR
Patent Number	: 7667798	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/010,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **116** 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.
12/010,216	01/22/2008	Nobuyuki Kondo	MNL-2018-1898	5304

7590 09/10/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
FISHER, PAUL R

ART UNIT	PAPER NUMBER
3689	

MAIL DATE	DELIVERY MODE
09/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 BPOWELL
03/26/2009 NNGUYEN1 00000030 12010216
02 FC:1111 -510.00 OP
05 FC:1202 -1000.00 OP

Adjustment date: 09/11/2009 BPOWELL
03/26/2009 NNGUYEN1 00000030 12010216
02 FC:1111 -510.00 OP
05 FC:1202 -1000.00 OP

FORM PET651G (Rev. 08/07)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,217	01/22/2008	Yukihiko Tanizawa	01-1625	5307

23400 7590 01/14/2010

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER	
KINKEAD, ARNOLD M	
ART UNIT	PAPER NUMBER
2817	

MAIL DATE	DELIVERY MODE
01/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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In re Application of	:	
Yukihiko TANIZAWA	:	**DECISION ON REQUEST TO**
Application No. 12/010,217	:	**PARTICIPATE IN PATENT**
Filed: 22 January 2008	:	**PROSECUTION HIGHWAY**
Attorney Docket No. 01-1625	:	**PROGRAM AND PETITION**
For: PULSE WIDTH MODULATION	:	**TO MAKE SPECIAL UNDER**
OUTPUT TYPE SENSOR CIRCUIT	:	**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 10 November 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 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).

Conditions (1) - (5) and (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (6).

Regarding the requirement of condition (6), the six prior art documents cited by in the JPO action as relevant art have not been submitted.

A proper response in this case must include:

a. An IDS listing the six documents cited by the JPO examiner in the JPO office action.
b. Copies of the six documents by the JPO examiner.

Applicant is given **ONE** opportunity within a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.REQUEST. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
12/010,217	01/22/2008	Yukihiko Tanizawa	01-1625	5307

23400 7590 02/18/2010

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER	
SMITH, ZANDRA V	

ART UNIT	PAPER NUMBER
2822	

MAIL DATE	DELIVERY MODE
02/18/2010	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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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of	:	
Yukihiko TANIZAWA	:	**DECISION ON REQUEST TO**
Application No. 12/010,217	:	**PARTICIPATE IN PATENT**
Filed: 22 January 2008	:	**PROSECUTION HIGHWAY**
Attorney Docket No. 01-1625	:	**PROGRAM AND PETITION**
For: PULSE WIDTH MODULATION	:	**TO MAKE SPECIAL UNDER**
OUTPUT TYPE SENSOR CIRCUIT	:	**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 10 November 2009 and renewed on 20 January 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, 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.

Inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision.

Lee W. young
TQAS
Technology Center 2800- Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

MAILED

APR 09 2010

OFFICE OF PETITIONS

In re Application of
Shih-Kun Yeh
Application No.: 12/010,223
Filed: January 22, 2008
Attorney Docket No: 7004.134

: ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed February 12, 2010.

The petition under 37 CFR 1.137(b) is **granted**.

On February 11, 2008, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period, and the application became abandoned on April 12, 2008. A Notice of Abandonment was mailed on October 21, 2008.

The fees paid February 12, 2010, are noted.

The address cited on the petition differs from the address of record. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Foo-Jung Tsai
1F No. 1-1 Wang Tzu Street
Chung-Li City
Taoyuang County
Taiwan ROC

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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

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APR 09 2010

OFFICE OF PETITIONS

In re Application of :
Shih-Kun Yeh :
Application No.: 12/010,224 : ON PETITION
Filed: January 22, 2008 :
Attorney Docket No: 7004.132 :

This is in response to the petition under 37 CFR 1.137(b) filed February 12, 2010.

The petition under 37 CFR 1.137(b) is **granted**.

On February 12, 2008, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period, and the application became abandoned on April 13, 2008. A Notice of Abandonment was mailed on October 21, 2008.

The fees paid February 12, 2010, are noted.

The address cited on the petition differs from the address of record. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Foo-Jung Tsai
1F No. 1-1 Wang Tzu Street
Chung-Li City
Taoyuang County
Taiwan ROC

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Reginald R. ROBERTSON	:	
Application No. 12/010,231	:	DECISION ON PETITION
Filed: January 23, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 416-2US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 3, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

This application is being referred back to the Office of Patent Application Processing for further 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT W. B. BAILEY
BOX 2, STATION L
WINNIPEG, MANITOBA R3H 0Z4 CA CANADA

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APR 2 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Reginald R. ROBERTSON	:	CORRECTED
Application No. 12/010,231	:	DECISION ON PETITION
Filed: January 23, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 416-2US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 3, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center Art Unit 2836 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 28 2009

OFFICE OF PETITIONS

ROBERT W B BAILEY
BOX 2
STATION L
WINNIPEG MB R3H 0Z4 CA CANADA

In re Application of	:	
Reginald R. Robertson	:	
Application No. 12/010,231	:	ON PETITION
Filed: January 23, 2008	:	
Attorney Docket No. 416-2US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 31, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 4, 2009. This Notice set a statutory period for reply of three months for issue fee transmittal. No issue fee having been received, the application became abandoned on August 5, 2009. The Office mailed a Notice of Abandonment on August 31, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 05/10/2010

Applicant	: Thomas Pfannen-Mueller	: DECISION ON REQUEST FOR
Patent Number	: 7597770	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/010,326	: OF WYETH
Filed	: 01/23/2008	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH VA 22042

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeong-hoon Bae, Tae-seok Oh,	:	
Ki-hong Kim, Hyoun-min Baek	:	
Won-je Park and Jung-ho Park	:	DECISION REFUSING STATUS
Application No. 12/010,362	:	UNDER 37 CFR 1.47
Filed: January 24, 2008	:	
Attorney Docket No. 275/046	:	

This is a decision on PETITION UNDER 37 C.F.R. §1.47 filed July 10, 2008.

The petition is **DISMISSED**.

Rule 47 applicants are given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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).

The above-identified application was filed on January 24, 2008, with a declaration executed by inventors Tae-seok Oh, Hyoun-min Baek, Won-je Park and Jung-ho Park, which also named joint inventors Jeong-hoon Bae and Ki-hong Kim. Accordingly, on March 11, 2008, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration including the signatures of inventors Jeong-hoon Bae and Ki-hong Kim and the surcharge for the late filing under § 1.16(e). This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicant filed the following papers: 1) the instant petition (and petition fee and late surcharge) under 37 CFR 1.47(b), 2) a declaration executed by Vice Chairman & CEO Yoon Woo Lee on behalf of non-signing inventors Bae and Kim, and 3) declarations of the pertinent facts by Vice Chairman & CEO Yoon Woo Lee. This response was made timely by an accompanying petition and fee for extension for response within the second month. Applicants request acceptance of the declaration on the basis that inventor Kim cannot be found and inventor Bae refuses to sign the declaration.

The petition under 37 CFR 1.47(b) and declaration executed by the assignee are improper. As stated in MPEP 409.03(b), filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "cannot be found or reached after diligent effort" or who refuses to sign the application oath or declaration. The word "person" has been construed by the U.S. Patent and Trademark Office to include juristic entities, such as a corporation. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b).

In this instance, 37 CFR 1.47(a) is available as there are inventors available to make application. On filing of the application, joint inventors Oh, Baek, Won-je Park and Jung-ho Park signed the declaration. Pursuant to 37 CFR 1.48(f), this declaration set the inventorship of the application. The Notice to File Missing Parts of Application mailed March 11, 2008 identified inventors Kim and Bae as joint inventors whose signatures were missing from the declaration. Instead of properly responding with either a declaration in compliance with 37 CFR 1.63 signed by inventors Kim and Bae or a declaration in compliance with 37 CFR 1.63 and a petition under 1.47(a), applicants responded with a declaration that only identified inventors Kim and Bae and that was executed by the assignee. To properly respond, applicants were to submit a declaration which identified the entire inventive entity that was signed by inventors Kim and Bae or a petition under 37 CFR 1.47(a) to accept the declaration submitted on filing without the signatures of inventors Kim and Bae (and thereby, executed by the signing joint inventors on behalf of themselves and on behalf of the nonsigning inventors).

If in fact the inventorship is now just inventors Kim and Bae, then applicants need to file a petition to correct inventorship.

Regardless, applicants need to submit an adequate showing of the unavailability of inventors Kim and Bae to join in the application. The allegation of inventor Bae's refusal to sign is not sufficiently supported. The petition does not include documentary evidence that inventor Bae received the application papers with a request to sign the declaration. It is noted that the copies of what appear to be mailings appear to be in the Korean language. Absent sufficient evidence of the presentation of the papers, it cannot be inferred that inventor Bae's failure to respond constitutes a refusal. Likewise, the allegation of the inability to locate inventor Kim is not sufficiently supported. The petition does not show that diligent efforts were undertaken to locate inventor Kim. Applicants have neither provided documentary evidence, such as Internet search results, to show these efforts nor have applicants explained the absence of such evidence.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH VA 22042

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Jeong-hoon Bae, Tae-seok Oh, :
Ki-hong Kim, Hyoun-min Baek :
Won-je Park and Jung-ho Park : DECISION ACCORDING STATUS
Application No. 12/010,362 : UNDER 37 CFR 1.47
Filed: January 24, 2008 :
Attorney Docket No. 275/046 :

This is a decision on REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. §1.47 filed April 22, 2009.

The petition is **GRANTED**.

The above-identified application was filed on January 24, 2008, with a declaration executed by inventors Tae-seok Oh, Hyoun-min Baek, Won-je Park and Jung-ho Park, which also named joint inventors Jeong-hoon Bae and Ki-hong Kim. In response to the "Notice to File Missing Parts of Nonprovisional Application" mailed March 11, 2008, on July 10, 2008, applicants filed the initial petition requesting acceptance of the declaration without the signatures of inventors Jeong-hoon Bae and Ki-hong Kim.

By decision mailed January 21, 2009, the petition was dismissed. The petition did not include adequate proof that inventor Kim could not be found or that inventor Bae refused to join in the application as alleged.

On instant renewed petition, applicants submitted a copy of the declaration executed by previously non-signing inventor Kim. In addition, applicants submitted an English translation of the documents submitted on initial petition to show that inventor Bae was presented with all of the application papers. Having considered this evidence, it is concluded that applicants have

submitted adequate proof of inventor Bae's refusal to join in the application.

Applicants have now met all requirements of 37 CFR 1.47(a).

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Jeong-hoon Bae
Rm. 1324 Poongrim i-want plus
1338-1 Seocho-dong
Seocho-gu
Seoul
Republic of Korea

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeong-hoon Bae, Tae-seok Oh,	:	
Ki-hong Kim, Hyoun-min Baek	:	
Won-je Park and Jung-ho Park	:	LETTER
Application No. 12/010,362	:	
Filed: January 24, 2008	:	
Attorney Docket No. 275/046	:	

Dear Mr. Bae:

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

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH VA 22042

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Wen Y. Chen	:	
Application No. 12/010,395	:	DECISION ON PETITION
Filed: January 24, 2008	:	TO WITHDRAW
Attorney Docket No. 03153.0016.DVUS00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 9, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on May 8, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **HOWREY LLP-EAST**
c/o IP DOCKETING DEPARTMENT
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042-2924

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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Chien-Kuo Liu, et al.	:	
Application No. 12/010,405	:	DECISION ON PETITION
Filed: January 24, 2008	:	
Attorney Docket No. 7000.190	:	

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 February 15, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 16, 2008. The Notice of Abandonment was mailed October 23, 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
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,432	01/24/2008	Seung-Gil Ha	P58645	7172

7590 06/29/2010
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
06/29/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 06/23/2010 NFARMER
01/25/2008 CRGUYENE 00000074 12010432
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

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MAR 02 2009

OFFICE OF PETITIONS

In re Application of :
Geroge Roumeliotis, et al. :
Application No. 12/010,476 : DECISION ON PETITION
Filed: January 25, 2008 : TO WITHDRAW
Attorney Docket No. 11115/45004 : 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 24, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Shawn O'Dowd on behalf of all attorneys of record who are associated with customer No. 23838. All attorneys/agents associated with the Customer Number 23838 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GEORGE ROUMELIOTIS
1048 BERKELEY AVENUE
MENLO PARK, CA 94025

cc: CDC SOFTWARE CORPORATION
TWO CONCOURSE PARKWAY
SUITE 800
ATLANTA, GA 30328

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/010,476	01/25/2008	George Roumeliotis	11115/45004

CONFIRMATION NO. 7157

POWER OF ATTORNEY NOTICE

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

OC000000034693375

Date Mailed: 02/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/24/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Guice Patents PLLC
12647 Galveston Court #302
Manassas VA 20112

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JUL 28 2009

OFFICE OF PETITIONS

In re Application of :
HUANG et al. :
Application No. 12/010,510 : DECISION ON PETITION
Filed: 01/25/2008 :
Attorney Docket No. 4602-0048 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

On February 15, 2008, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to reply. In the absence of a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application, the application became abandoned on April 16, 2008. A Notice of Abandonment was mailed on October 23, 2008.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made a proper statement of unintentional delay.

This matter is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

550-693 SCS

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MAR 16 2010

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of :
Barry Duane WILLIAMSON :
Application No. 11/193,634 : DECISION ON PETITION
Filed: August 01, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 550-693 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2189 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APR 15 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/193,634	08/01/2005	2189	1730	550-693	18	6

CONFIRMATION NO. 7367

CORRECTED FILING RECEIPT

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 03/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Barry Duane Williamson, Cedar Park, TX;
Gerard Richard Williams, Sunset Valley, TX;
Muralidharan Santharaman Chinnakonda, Austin, TX;

Assignment For Published Patent Application

ARM Limited, Cambridge, UNITED KINGDOM
Texas Instruments Incorporated, Dallas, TX

Power of Attorney: The patent practitioners associated with Customer Number 23117

Domestic Priority data as claimed by applicant

This application is a CIP of 11/105,593 04/14/2005 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 10/24/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/193,634** .

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

PAGE 8/17 * RCVD AT 4/15/2010 10:19:56 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/17 * DNIS:2738300 * CSID:703+816+4100 * DURATION (mm-ss):02-28

Title

Correction of incorrect cache accesses

Preliminary Class

711

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

PAGE 9/17 * RCVD AT 4/15/2010 10:19:56 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/17 * DNIS:2738300 * CSID:703+816+4100 * DURATION (mm-ss):02-28

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).

PAGE 10/17 * RCVD AT 4/15/2010 10:19:56 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/17 * DNIS:2738300 * CSID:703+816+4100 * DURATION (mm-ss):02-28

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

WILLIAMSON et al. Atty. Ref.: 550-693; Confirmation No. 7367

Appl. No. 11/193,634 TC/A.U. 2189

Filed: August 1, 2005 Examiner: K. Verbrugge

For: CORRECTION OF INCORRECT CACHE ACCESSES

* * * * * * * * * * * *

December 10, 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 CFR 1.78(A)(3)

Grant of the present Petition and entry of the attached Amendment in the above application are requested.

The present application was filed August 1, 2005 (i.e., "on or after November 29, 2000") and became abandoned on February 7, 2008 (Paper No. 20080131).

Applicant previously filed a similar petition on September 21, 2009 which was dismissed (as clarified by Ms. Brinkley of the Petitions Office on December 9, 2009) for (1) attempting to amend to include an incorporation by reference, (2) submitting an insufficient fee (although a fee of $400 was submitted, the cover sheet included an authorization for the PTO to charge any insufficiency to the undersigned's deposit account), and (3) by failing to state that the delay in making the amended claim was unintentional. The present petition includes (1) a revised amendment without the incorporation by reference, (2) a payment of the additional $1,010

(which, with the previous payment, makes a total of $1,410, along with a further deposit account authorization), and (3) the required statement that the delay was unintentional. Reconsideration of the petition is requested in view of the above modifications.

The undersigned is filing concurrently herewith in the present application a revised Amendment amending the specification on the first page immediately below the title an insert which reads: "This application is a Continuation-in-Part of Application No. 11/105,593 filed April 14, 2005." This amendment is for the purpose of perfecting the claim for priority back to the Grandparent application in this abandoned Parent application, thereby perfecting priority back to the Grandparent application for the commonly disclosed subject matter for the currently pending Child application Serial No. 12/010,512 filed January 25, 2008.

The undersigned has reviewed the following passage taken from the Patent Office website ((http://www.uspto.gov/web/offices/dcom/olia/aipa/18monthfaq.htm#cx4):

> "CX14. Can applicant add a benefit claim of a prior-filed non-provisional application in a later-filed copending application that has been abandoned without filing a petition to revive the later-filed application? (added 4Feb2005)
>
> Yes, a petition to revive the later-filed application is not required when applicant is adding a benefit claim by filing an amendment (or an application data sheet) to add the specific reference of the prior-filed non-provisional application. A petition under 37 CFR 1.78(a)(3), however, is required if the later-filed application is a utility or plant application filed on or after November 29, 2000. If the later-filed application is a utility or plant application filed before November 29, 2000, a petition under 37 CFR 1.182 is required."

The present Petition and attached Amendment are being filed based on the above and, to the extent applicable, *Sampson v. Commissioner*, 195 USPQ 136 (D.D.C. 1976).

PAGE 12/17 * RCVD AT 4/15/2010 10:19:56 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/17 * DNIS:2738300 * CSID:703+816+4100 * DURATION (mm-ss):02-28

WILLIAMSON et al
Appl. No. 11/193,634
December 10, 2009

The Rule 17(f) fee is enclosed herewith ($1,010.00 which in conjunction with the previously submitted $400 meets the required amount $1,440). Applicant again includes a deposit account charge authorization to charge any insufficiency or return any overpayment.

Applicant certifies that the entire delay in amending the Parent application to reflect the correct priority including the delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the filing date of this petition was unintentional.

Correction of the Patent Office records with respect to Applicants' claim for priority benefit by entry of the attached Amendment and issuance of a Corrected Filing Receipt in this application are respectfully requested.

The Office is requested to contact Applicants' undersigned representative in the event anything further is required regarding the amendment to this abandoned application.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____
Stanley C. Spooner
Reg. No. 27,393

SCS:kmm
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

PAGE 13/17 * RCVD AT 4/15/2010 10:19:56 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/17 * DNIS:2738300 * CSID:703+816+4100 * DURATION (mm-ss):02-28

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Alexandria, VA 22313-1450
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Thomas Pavelko
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

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JUN 14 2008

In re Application of	:	
Palsson et al.	:	
Application No. 12/010587	:	
Filing or 371(c) Date: 01/28/2008	:	
Attorney Docket Number:	:	DECISION
TPP31319CIP2DIV	:	ON PETITION

This is a decision on the "Petition to be Accorded the Filing Date of January 28,, 2008, filed May 21, 2008. The petition is properly treated under 37 CFR 1.53(e).

The petition is granted.

The application was filed on January 28, 2008. On March 26, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the specification was missing.

Applicant responds with the present petition and avers that the application as-filed on January 28, 2008included fourteen (14) pages of specification, 14 claims, one page Abstract and 2 sheets of drawings. In support of this assertion, Applicant files a copy of filing receipt, itemizing fourteen (14) pages of specification, 14 claims, one page Abstract and 2 sheets of drawings, and date-stamped as received by this Office on January 28, 2008.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

In view of the above, the Notice mailed March 26, 2008, was mailed in error and is hereby withdrawn.

No petition fee has been filed and none is due.

The copy of fourteen (14) pages of specification, 14 claims, one page Abstract and 2 sheets of drawings filed with the present petition, will be used for examination purposes.

The Office received the oath/declaration and preliminary amendment on January 28, 2008.

This application is being forwarded to the Office of Patent Application Processing, Customer Corrections, for further processing,

- with the filing date of January 28, 2008,

- and an indication that fourteen (14) pages of specification, 14 claims, one page Abstract and 2 sheets of drawings were present on January 28, 2008, using the fourteen (14) pages of specification, 14 claims, one page Abstract and 2 sheets of drawings filed with the present petition,

Telephone inquiries concerning this matter should be directed to the undersigned at (571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Tomokatsu Fuseya	: DECISION ON REQUEST FOR
Patent Number	: 7609083	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/010,596	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
12/010,647	01/28/2008	Hiromichi Hanai	2018-1900	8352

7590 08/05/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
ZIMMERMAN, BRIAN A	

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
08/05/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
08/07/2009 0032073088

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX2021

Adjustment date: 08/07/2009 NFARMER
01/29/2008 DEMMANU1 00000122 12010647
02 FC:1111 -510.00 OP

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ARLINGTON VA 22203

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Muakami :
Application No. 12/010,648 : DECISION
Filed: 28 January, 2008 :
Attorney Docket No. MEN-723-2295 :

This is a decision on the petition filed on 12 June, 2008, supplemented on 27 June, 2008, to obtain the original date of deposit (28 January, 2008) as the filing date for the instant application under 37 C.F.R. §1.53.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

The instant application was deposited on 28 January, 2008.

On 13 February, 2008, the Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) mailed a Notice of to File Corrected Application Papers **Filing Date Granted** (substitute specification and replacement drawings), to which Petitioner replied timely with an amendment and replacement drawings on 1 April, 2008. On 19 May, 2008, OPAP mailed a Notice of Incomplete Reply, however, the latter Notice further stated that ""[t]he filing date of the nonprovisional application will be the date of receipt of the items required above."

On 12 June, 2008, Petitioner filed, *inter alia*, the instant petition, a date-stamped ("JAN 28 2008") receipt card, copies of previously submitted replies including therein the preliminary amendment and an extension of time.

On 24 June, 2008, OPAP mailed a new Notice of Incomplete Reply Filing Date Granted, and the Notice once again stated that ""[t]he filing date of the nonprovisional application will be the date of receipt of the items required above."

On 27 June, 2008, Petitioner filed, *inter alia*, a second supplement to the instant petition, a date-stamped ("JAN 28 2008") receipt card, copies of previously submitted replies including therein the preliminary amendment and an extension of time.

On 15 July, 2008, OPAP mailed a filing receipt setting forth the filing date for the instant application as "01/28/2008."

Thus, Office records now confirm that the result sought herein by Petitioner has been obtained.

CONCLUSION

The Office previously has granted a filing date of 28 January, 2008, for this application.

Accordingly, the instant petition is **dismissed as moot;** the petition fee is waived and it appears that none has been charged.

This application is released to OPAP for further processing consistent with this decision, including a filing date of 28 January, 2008, before that application is forwarded for substantive examination.

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

§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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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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NOV 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Nejad and Seyyedy :
Application No. 12/010,651 : DECISION ON PETITION
Filed: January 28, 2008 : PURSUANT TO
Attorney Docket No. : 37 C.F.R. § 1.47(A)
M4065.0514/P514-F :
Title: STACKED MEMORY CELL :
STRUCTURE AND METHOD OF FORMING :
SUCH A STRUCTURE :

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on September 29, 2009.

This petition is **DISMISSED.**

On January 28, 2008, the application was filed, identifying Messrs. Nejad and Seyyedy as joint inventors. A fully executed declaration was included on filing, however, this declaration failed to contain the citizenship of either inventor, as required by 37 C.F.R. § 1.63(a)(3).

On August 20, 2009, Petitioner submitted this petition, along with, *inter alia*, a declaration that lists the first-named inventor as the sole inventor, a declaration of facts, the last-known address of Mr. Seyyedy,[1] and an indication that this individual cannot be located.[2]

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);

1 Flax declaration of facts, paragraph 10.
2 Petition, page 1. See also Flax declaration of facts, generally.

(3) a statement of the last known address of each non-signing inventor;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or
  b) proof that each non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

Petitioner has met requirements (1) and (3) of 37 C.F.R. § 1.47(a). The second requirement is not applicable.

Regarding the fourth requirement of 37 C.F.R. § 1.47(a), Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. Petitioner has set forth that the non-signing joint inventor "cannot be located."[3] As such, Petitioner is required to establish that a diligent effort was made to locate each non-signing inventor. The searches which have been described consist of contacting both the non-signing inventor's former employer[4] and the signing inventor,[5] an Internet search engine,[6] and an Internet social networking Website.[7] These searches do not constitute a diligent effort, as it is not a search that is likely to result in the obtainment of the address where each non-signing inventor customarily receives mail.

Prior to filing a renewed petition, Petitioner should conduct searches that are reasonably likely to result in the obtainment of the address where each non-signing inventor customarily receives mail. Petitioner must provide a showing detailing the attempts that were made to obtain forwarding addresses or to locate the non-signing inventors by means such as through E-mail, telephone, and the Internet. If these searches are sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof required under 37 C.F.R. § 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing

3 Petition, page 1.
4 Flax statement of facts, paragraph 9,
5 Id. at 11.
6 Id. at 13
7 Id. at 15.

inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Moreover, it noted that Petitioner has indicated that he "assigned James DiNatale, a researcher employed with Dickstein, to investigate the current contact information for Mr. Seyyedy."[8] A copy of the search results from this researcher's attempts have been included, and it appears that a search was run on a commercially-available database. However, the record does not contain a description of this search. On renewed petition, Petitioner should provide a statement from James DiNatale, which contains a description of the search terms that were used, as well as an indication of the database that was searched and an indication as to whether the identifiers which are present in these search results are consistent with those of the non-signing inventor.

Additionally, it is noted that these search results contain an address in California, but it does not appear that this lead was investigated. Petitioner should investigate this lead before filing any renewed petition.

Still further, the search appears to have been conducted for locating "Mirrahmeen L. (emphasis added) Seyyedy," and the record is unclear as to why a middle initial appears to have been included in the search terms. The fully executed oath that was included on filing lists the "full name" of this individual as "Miramajid Seyyedy," *i.e.* it does not appear that his individual has a middle name. Moreover, it is noted that in neither this petition, nor in any of the e-mails in the exhibits which were included with this petition, do any of the individuals at Petitioner's law firm or the former employer of the non-signing inventor indicate that this individual has a middle initial of "L." As a result, the undersigned has conducted a search using the "Public Records" search feature of LexisNexis® for the inventor as his name has been provided to the Office (*i.e.* with no middle initial), and several alternate addresses which do not appear in Petitioner's search results have been obtained, including seven alternate addresses in Idaho and an address in Missouri. Petitioner should investigate these leads before filing any renewed petition.

Regarding the fifth requirement of 37 C.F.R. § 1.47(a), the declaration that was submitted concurrently with this petition cannot be accepted, as it fails to comply with 37 C.F.R. § 1.63(a)(2) - the declaration does not list the non-signing inventor as an inventive entity. On renewed petition, if Mr. Seyyedy cannot be located, Petitioner should submit a declaration

8 Id. at 10.

that has been signed by Mr. Nejad, with the signature block of Mr. Seyyedy left blank.[9]

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner should note that any statement that appears therein should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[10] hand-delivery,[11] or facsimile.[12] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[13]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[14]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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9 See MPEP § 409.03(a)(A).
10 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
11 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
12 (571) 273-8300- please note this is a central facsimile number.
13 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
14 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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SUITE 370
ALEXANDRIA VA 22314

MAIL

MAR 06 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: **KOMI** et al
Application No.: 12/010,686
Filed: January 29, 2008

For: **AND METHOD FOR CONVERTING A COMPRESSED VIDEO STREAM WITH PREVIEW OF CONVERTED STREAM**

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 January 26, 2009, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application 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 actions (other than "Decision to Grant a Patent") 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 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 Ricky Ngo 571-272-3139.

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.

/Ricky Ngo/

_____

Ricky Ngo
Supervisory Patent Examiner, Technology Center 2400
571-272-3139

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 17 2008

In re Application of	:	
Vivona, Peterson, Pfeifer,	:	
Stehr, Dilenschneider, Nash,	:	DECISION REFUSING STATUS
Hagy, Wald, Sanders, and Olson	:	UNDER 37 CFR 1.47(a)
Application Number: 12/010777	:	
Filing Date: 01/30/2008	:	
Filing or 371(c) Date:	:	
01/30/2008	:	

This is a decision on the petition under 37 CFR 1.47(a), filed on July 21, 2008.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on January 30, 2008, without an executed oath or declaration. Accordingly, on February 20, 2008, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on July 21, 2008, a petition under 37 CFR 1.47(a), the present petition, authorization to charge any required fees and the late filing surcharge were filed. A five (5) month extension of time was also filed.

Petitioners assert that the declaration was sent to joint inventor Ryan Sanders' last known address, but that he failed to sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that joint inventor Sanders was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Rather, the showing of record is that only the declaration was sent to the putative non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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[1] MPEP 409.03(d).

In regards to item (2), an oath or declaration in compliance with 37 CFR 1.63 is still missing. Although the itemized postcard and the paper entitled "RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION" filed with the petition indicate the declaration was filed, the declaration cannot be located among the papers received on July 21, 2008. Accordingly, a copy of the declaration must be provided with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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901 NEW YORK AVENUE, NW
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In re Application of	:
Vivona et al.	: DECISION NOTING JOINDER
Application Number: 12/010777	: OF INVENTOR AND PETITION
Filing Date: 01/30/2008	: UNDER 37 CFR 1.47(a) MOOT
Attorney Docket Number:	:
09991.0028-00000	:

Papers filed on October 30, 2008, in response to the decision dismissing petition mailed on September 17, 2008, included a Declaration signed by the 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 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FITCH EVEN TABIN & FLANNERY
P.O. BOX 18415
WASHINGTON, DC 20036

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of
Yoshihito Nakahara et al
Application No. 12/010,785
Filed: January 30, 2008
Attorney Docket No. 7412-91605

ON PETITION

This is a decision on the petition filed October 26, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed July 10, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 13, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P. O. BOX 18415
WASHINGTON, DC 20036

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FEB 16 2010

In re Application of	:	
Yoshihito Nakahara, et al.	:	
Application No. 12/010,785	:	DECISION GRANTING PETITION
Filed: January 30, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7412-91605	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 2, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 26, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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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.
12/010,787	01/30/2008	Yasuro Kikuchi	UDK-0071	9309

23353 7590 04/08/2009

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
04/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STRETT, N.W., SUITE 501
WASHINGTON, DC 20036

In re Application of
Yasuro Kikuchi et al
Application No.: 12/010787
Filed: 30 January 2008
Attorney Docket No.: UDK-0071
For: DISCHARGE LAMP

: 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) pilot program and the petition under 37 CFR 1.102(d), filed 26 March 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 JPO, or
      (ii) validly claims priority to a PCT application that contains no priority claims,

or

   (b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
      (i) validly claims priority to an application filed in the JPO, or
      (ii) validly claims priority to a PCT application that contains no priority claims, or
      (iii) contains no priority claim,

or

   (c) a so-called bypass application filed under 35 U.S.C. 111(a) which

validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application

(i) validly claims priority to an application filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. application.

2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
    b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition 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, all of the claims in the instant US application, specifically claims 3-5, do not sufficiently correspond to the allowable/patented claims in the corresponding JPO application 2007-023675.

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 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

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.
12/010,787	01/30/2008	Yasuro Kikuchi	UDK-0071	9309

23353 7590 05/14/2009

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
TON, MINH TOAN T	

ART UNIT	PAPER NUMBER
2889	

MAIL DATE	DELIVERY MODE
05/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STRETT, N.W., SUITE 501
WASHINGTON, DC 20036

In re Application of
Yasuro Kikuchi et al
Application No.: 12/010787
Filed: 30 January 2008
Attorney Docket No.: UDK-0071
For: DISCHARGE LAMP

: 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 26 March, 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 is
   (a) a Paris Convention application which either
      (i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
      (ii) validly claims priority to a PCT application that contains no priority claims,

or

   (b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
      (i) validly claims priority to an application filed in the JPO, or
      (ii) validly claims priority to a PCT application that contains no priority claims, or
      (iii) contains no priority claim,

or

   (c) a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which

PCT application

(i) validly claims priority to an application filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. application.

2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
    b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition is assessed as follows:

In light of applicants' amendment of 4/21/09, conditions 1-7 are now considered to have been met. Therefore, 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 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

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

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas Hasenzahl	:	
Application No. 12/010,791	:	DECISION ON PETITION
Filed: January 30, 2008	:	
Attorney Docket No. 66489-161-7	:	

This is a decision on the petition, filed January 22, 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 **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Missing Parts (Notice) of February 11, 2008, which set a two (2) month shortened statutory period for reply. A reply was due on or before April 11, 2008 without an extension of time under 37 CFR 1.136, or September 11, 2008 with a five month extension of time.

Petitioner states that a reply was in fact timely filed. A search of the file reveals that a preliminary amendment, which cancels multiple dependency in the claims and authorizes the USPTO to charge any necessary fees to Deposit Account 04-2223, is of record in the application file and was received by the USPTO on March 26, 2008. A copy of the previously submitted reply accompanies the petition. Accordingly, the response to the Office action of March 26, 2008 is recognized as being timely received in the USPTO.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,892	01/30/2008	Yuichiro Matsuura	MNL-2635-579	9701

7590 09/23/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
WOLFE JR, WILLIS RAY	

ART UNIT	PAPER NUMBER
3747	

MAIL DATE	DELIVERY MODE
09/23/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/24/2009 0030074747

Credit Card Refund Total: $720.00

No Exp...: XXXXXXXXXXXX2021

Adjustment date: 09/24/2009 NFARMER
04/16/2008 WABDELR1 00000061 12010892
02 FC:1111 -510.00 OP
05 FC:1201 -210.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wang Law Firm, Inc.
4989 Peachtree Parkway,
Suite 200
Norcross GA 30092

MAILED

JUL 24 2009

OFFICE OF PETITIONS

In re Application of
Lai
Application No. 12/010,893
Filed: January 30, 2008
Attorney Docket No. T-001.P036/2886-012AUSCIP
For: FIRING MECHANISM FOR PAINTBALL GUN

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2009, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed March 3, 2008, which set an extendable two month period to submit the basic filing fee, a surcharge for its late filing, the search fee, and the examination fee. No extensions of time being obtained and no reply being filed, the application became abandoned on May 4, 2008. A Notice of Abandonment was mailed on November 6, 2008.

A grantable petition pursuant to 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. The Director may

require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioner has paid the $65.00 surcharge by credit card.

It is noted that petitioner has authorized the Office to charge a $515.00 "official filing fee" to petitioner's deposit account. There does not appear to be a general authorization to charge all required fees on file. Petitioner is informed that the basic filing fee is currently $165.00, the search fee is $270.00, and the examination fee is $110.00. The total fees due are $545.00. Please submit all required fees.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The revocation/power of attorney/change of correspondence address filed on June 18, 2009 has been entered and made of record. Please find enclosed a notice reflecting the requested changes.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/010,893	01/30/2008	Bao Shyan Lai	3294-037

CONFIRMATION NO. 9706

POA ACCEPTANCE LETTER

72820
Wang Law Firm, Inc.
4989 Peachtree Parkway,
Suite 200
Norcross, GA 30092

OC00000036987233

Date Mailed: 07/17/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/18/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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

Wang Law Firm, Inc.
4989 Peachtree Parkway,
Suite 200
Norcross GA 30092

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Lai
Application No. 12/010,893
Filed: January 30, 2008
Attorney Docket No. T-001.P036/2886-012AUSCIP
For: FIRING MECHANISM FOR PAINTBALL GUN

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 14, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed March 3, 2008, which set an extendable two month period to submit the basic filing fee, a surcharge for its late filing, the search fee, and the examination fee. No extensions of time being obtained and no reply being filed, the application became abandoned on May 4, 2008. A Notice of Abandonment was mailed on November 6, 2008.

Applicant has submitted a proper reply to the March 3, 2008 Notice in the form of a $65.00 surcharge and authorization to charge the basic filing fee, search fee, and examination fee to petitioner's deposit account, an acceptable statement of the unintentional nature of the delay in responding to the March 3, 2008 Notice, and the $810.00 petition fee.

Pursuant to petitioner's authorization, deposit account no. 50-4290 is being charged the basic filing fee of $165.00, the search fee of $270.00, and the examination fee of $110.00. The total fees charged will be $545.00.

After the mailing of this decision, the file will be referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/03/2010

Applicant	: Cheng-Chung Chang	: DECISION ON REQUEST FOR
Patent Number	: 7626812	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/010,914	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,922	01/31/2008	Mika Fujii	SON-3905	1207

7590 07/22/2009

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
NORTON, NADINE GEORGIANNA	

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
07/22/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/22/2009 NFARMER
02701/2008 AWONDAF1 00000048 180013 12010922
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/010,950	01/31/2008	Joseph Kimler	Lip-1067	1540

7590 09/17/2009

FISHER, CHRISTEN & SABOL
1120 20TH STREET, NW, SOUTH TOWER, SUITE 750
WASHINGTON, DC 20036

EXAMINER	
CHOI, FRANK I	

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
09/17/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/17/2009 NFARMER 0000168827

CHECK Refund Total: $2030.00

Adjustment date: 09/17/2009 NFARMER
02/01/2008 AWONDAF1 00000057 12010950
02 FC:1111 -510.00 OP
04 FC:1201 -1470.00 OP
05 FC:1202 -50.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Yuichiro Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7569814	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/010,977	: OF WYETH
Filed	: 01/31/2008	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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JAN 0 8 2010

OFFICE OF PETITIONS

GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932

In re Application of :
Katherine Ann Gomes et al. :
Application No. 12/010,984 : DECISION ON PETITION
Filed: January 31, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 103248-010907 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 3, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by an attorney on behalf of applicant Arthur A. Gertzman that he/she is age 65 years or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3774 for action on the merits commensurate with this decision.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON DC 20001-4413

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul John Smith	:	
Application No. 12/010,989	:	DECISION GRANTING PETITION
Filed: January 31, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 08350.0034-00000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 filed June 15, 2009 and for consideration of the information disclosure statement filed April 28, 2009.

Terri Williams
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
Jekyll Island GA 31527

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SEP 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Thomas et al. : DECISION GRANTING STATUS
Application No. 12/011,025 : UNDER 37 CFR 1.47(a)
Filed: January 22, 2008 :
Attorney Docket No. TAPROOT- :
02TAPROOT-02 :

This is in response to the petition under 37 CFR 1.47(a), filed June 17, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Best Available Copy

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Hugh W. Thomas
9207 Laurel Springs Drive
Chapel Hill, NC 27516

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SEP 22 2008

OFFICE OF PETITIONS

Hugh W. Thomas, CEO
Air Semiconductor
Cherry Orchard North, Kembry Park
Swindon SN2 8UH
United Kingdom

In re Application of
Thomas, et al.
Application No. 12/011,025
Filed: January 22, 2008
Attorney Docket No. TAPROOT-02TAPROOT-02

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
Jekyll Island GA 31527

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hugh W. Thomas
9207 Laurel Springs Drive
Chapel Hill, NC 27516

Hugh W. Thomas, CEO
Air Semiconductor
Cherry Orchard North, Kembry Park
Swindon SN2 8UH
United Kingdom

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SEP 22 2008
OFFICE OF PETITIONS

In re Application of
Thomas, et al.
Application No. 12/011,025
Filed: January 22, 2008
Attorney Docket No. TAPROOT-02TAPROOT-02

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
Jekyll Island GA 31527

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IIYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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FEB 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Alex COOPER, et al	:	
Application No. 12/011,038	:	DECISION ON PETITION
Filed: January 24, 2008	:	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 January 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant Alex Cooper 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

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 04/21/2010

Applicant	: Volker Heite	: DECISION ON REQUEST FOR
Patent Number	: 7595457	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/011,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **10** 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Haitao Mei	: DECISION ON REQUEST FOR
Patent Number	: 7619460	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/011,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2008	: 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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LINDA FLEWELLEN GOULD
1665 BRIARGATE BLVD. #101
COLORADO SPRINGS, CO 80920

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FEB 25 2008

OFFICE OF PETITIONS

In re Application of
Harold D. PALMER
Application No. 12/011,078
Filed: January 24, 2008
Attorney Docket No.

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's birth certificate. 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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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

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MAR 16 2010

OFFICE OF PETITIONS

In re Application of :
Andrew Wallace et al :
Application No. 12/011,103 : ON PETITION
Filed: January 24, 2008 :
Attorney Docket No. 49072-109074 :

This is a decision on the petition filed November 24, 2009 under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On April 16, 2009, the Office mailed a Final Office action, which set a three month shortened statutory period to reply. Three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 17, 2009. On November 16, 2009, the Office mailed a Notice of Abandonment.

In the present petition, the applicant respectfully petitions for withdrawal of the holding of abandonment on the ground that a proper reply to the Office action mailed on April 16, 2009 was timely filed. Specifically, applicant states "On October 15, 2009, Applicant filed a Response to Office Action ("Response") including claim amendments and new arguments in support of patentability."

Office record show a reply was received on October 15, 2009. However, the reply does not place the application in condition for allowance. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A courtesy copy of the October 30, 2009 Advisory Action accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Enclosures: A courtesy copy of the October 30, 2009 Advisory Action.

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.
12/011,103	01/24/2008	Andrew Wallace	49072-109074	7443

23644 7590 10/30/2009

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

EXAMINER	
DINH, PHUONG K	

ART UNIT	PAPER NUMBER
2839	

NOTIFICATION DATE	DELIVERY MODE
10/30/2009	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):

Patent-ch@btlaw.com

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 12/011,103	**Applicant(s)** WALLACE ET AL.	
	Examiner Phuong KT Dinh	**Art Unit** 2839	

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

THE REPLY FILED 15 October 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: 4,6,9,10,13-14.
   Claim(s) rejected: 1-3,5,7,8,11 and 12.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Phuong KT Dinh/
Primary Examiner, Art Unit 2839

Continuation of 13. Other: The limitations of at least one, a circumference and each of the plurality of bays comprising a region defined by a unique pair of end portions and a core coupling the unique pair of end portion, the core being spaced from the periphery of the unique pair of end portions raise a new issue and the last amendment is not entered.

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CHICAGO, IL 60690-2786

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JUN 01 2010

OFFICE OF PETITIONS

In re Application of
Andrew Wallace et al
Application No. 12/011,103
Filed: January 24, 2008
Attorney Docket No. 49072-109074

DECISION ON PETITION

This is a decision on the renewed petition, filed April 26, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 16, 2009, which set a three (3) month period for reply. A three-month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before October 16, 2009.

Office record show that a Request for Continued Examination (RCE) was timely filed on October 15, 2009 in accordance with 37 C.F.R. § 1.114; therefore, the petition is granted.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 16, 2009 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center AU 2839 for appropriate action in the normal course of business on the reply received October 15, 2009.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Glen Van Datta	: DECISION ON REQUEST FOR
Patent Number	: 7610505	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/011,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Charles F. Lind
2210 E. Sherwood Road
Arlington Heights, IL 60004

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of Purohit :
Application No. 12/011,113 : Decision on Petition
Filing Date: January 25, 2008 :
Attorney Docket No. CFL 27383 :

This is a decision on the petition under 37 CFR 1.181 filed November 12, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice to File Corrected Application Papers on February 22, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice.

Petitioner filed a reply to the Notice on March 17, 2008. However, the reply incorrectly listed the application number as 12/011,112. As a result, the reply was matched with the file for application no. 12/111,112.

A Notice of Abandonment was mailed October 28, 2008. The Notice of Abandonment indicated the application was abandoned because no reply had been filed in response to the February 22, 2008 Notice.

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

Items (1) and (2) above have been met. The reply correctly listed the inventor's name, the title of the invention, the attorney's docket number, and the filing date. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The March 17, 2008 reply has been transferred from the file for Application No. 12/011,112 to the file for Application No. 12/011,113.

The Office of Patent Application Processing will be informed of the instant decision and steps will be taken to prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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CHARLES I. BRODSKY
2 BUCKS LANE
MARLBORO NJ 07746

COPY MAILED
JAN 16 2009

In re Application of
Michael M. Vasilantone
Application No. 12/011,145
Filed: January 25, 2008
Attorney Docket No.6213

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 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 mailed February 22, 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 drawings submitted on December 1, 2008, are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES I. BRODSKY
2 BUCKS LANE
MARLBORO NJ 07746

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Application of
Michael M. Vasilantone
Application No. 12/011,145
Filed: January 25, 2008
Attorney Docket No. 6213

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an replacement; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed February 22, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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

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SEP 10 2009

OFFICE OF PETITIONS

In re Application of :
Joseph Wood, et al. :
Application No. 12/011,146 : DECISION ON PETITION
Filed: January 25, 2008 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 944-003.218-2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 3, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2617 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/011,146	01/25/2008	2617	1280	944-003.218-2	25	3

CONFIRMATION NO. 7988

CORRECTED FILING RECEIPT

4955
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Date Mailed: 09/04/2009

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)

Joseph Wood, Burlington, MA;
Valtteri Eroma, Helsinki, FINLAND;
Jamie Yung, Hong Kong, CHINA;
Dicky Wong, Hong Kong, CHINA;

Assignment For Published Patent Application

Nokia Corporation

Power of Attorney: The patent practitioners associated with Customer Number 4955

Domestic Priority data as claimed by applicant

This application is a DIV of 11/046,556 01/28/2005 PAT 7,400,917
which is a CIP of 10/881,898 06/30/2004
and claims benefit of 60/540,899 01/30/2004

Foreign Applications

If Required, Foreign Filing License Granted: 02/22/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/011,146**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Protective devices for a mobile terminal

Preliminary Class

455

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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530 VIRGINIA ROAD
PO BOX 9133
CONCORD MA 01742-9133

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JAN 05 2009

In re Application of	:	
Udpa, et al.	:	
Application No. 12/011,208	:	DECISION ON PETITION
Filed: January 24, 2008	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 6550-000156/US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on January 24, 2008, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/897,402 which was filed on January 25, 2007, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119 after the filing date of the application, the amendment is not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

The $1,410 fee as required by 37 CFR 1.78(a)(6)(ii) has been charged to Deposit Account No. 08-0750, as authorized. No additional fee is required on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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HARNESS DICKEY & PIERCE PLC
PO BOX 828
BLOOMFIELD HILLS MI 48303

MAILED

MAY 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Udpa, et al.	:	
Application No. 12/011,208	:	DECISION ON PETITION
Filed: January 24, 2008	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 6550-000156/US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 4, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application. A copy of this decision was erroneously mailed to a law firm not of record on January 5, 2009, and returned to the USPTO on January 26, 2009.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on January 24, 2008, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/897,402 which was filed on January 25, 2007, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119 after the filing date of the application, the amendment is not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

The $1,410 fee as required by 37 CFR 1.78(a)(6)(ii) has been charged to Deposit Account No. 08-0750, as authorized. No additional fee is required on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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BLOOMFIELD HILLS MI 48303

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JUL 31 2009

OFFICE OF PETITIONS

In re Application of :
Upda, et al. :
Application No. 12/011,208 : DECISION ON PETITION
Filed: January 24, 2008 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 6550-000156/US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application no. 60/897,402, set forth in the concurrently filed Amendment.

The petition is **GRANTED.**

Applicants filed a petition under 37 CFR 1.78(a)(6) on December 4, 2008. However, the petition was dismissed in a decision mailed on May 27, 2009. The petition was dismissed because the amendment included an improper incorporation by reference statement, in that the statement was not originally present on filing.

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.

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 Group Art Unit 2862 for docketing and examination in due course.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/011,208	01/24/2008	2862	580	6550-000156	15	3

CONFIRMATION NO. 7498

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

CORRECTED FILING RECEIPT

Date Mailed: 07/27/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Satish Udpa, Okemos, MI;
Lalita Udpa, Okemos, MI;
Naveen V. Nair, East Lansing, MI;
Vikram Reddy Melapudi, East Lansing, MI;

Assignment For Published Patent Application

Board of Trustees of Michigan State University, East Lansing, MI

Power of Attorney: The patent practitioners associated with Customer Number 27572

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/897,402 01/25/2007

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Eddy current inspection system

Preliminary Class

324

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS IN 46204

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NOV 0 4 2008

OFFICE OF PETITIONS

In re Application of :
SANDMEIER, BRUNO :
Application No. 12/011,236 : DECISION ON PETITION
Filed: January 25, 2008 :
Attorney Docket No. 1761-0069 :

This is a decision on the "PETITION FOR DATE OF DEPOSIT," filed March 19, 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 January 25, 2008, with Figures 2a and 2b in the Swiss priority document as part of the original disclosure.

On January 25, 2008, the application was filed with four (4) sheets of drawing, consisting of Figures 1, 3, 4, 5, 6, and 7. On February 19, 2008, the Office mailed a Notice of Omitted Items(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of January 25, 2008, and advising applicant that Figures 2a and 2b appeared to have been omitted.

In response, on March 19, 2008, applicant submitted, inter alia, the present petition, a copy of Figures 2a and 2b, five (5) sheets of replacement drawings, and the petition fee. Applicant states that Figures 2a and 2b were submitted with the application on January 25, 2008, as part of the Swiss priority application from which priority was claimed.

A review of the record reveals that Figures 1, 3, 4, 5, 6, and 7 were submitted with the application papers on January 25, 2008. However, the brief description of the drawings and the body of the specification for this application describe drawings of Figures 1, 2a, 2b, 3, 4, 5, 6, and 7. A further review of the record reveals that the application papers, filed on January 25, 2008, included a Swiss foreign priority document, which contained four (4) sheets of drawings, consisting of 1, 2a, 2b, 3, 4, 5, and 6. Accordingly, Figures 2a and 2b, as they appear in the foreign priority document, will be scanned and used during the prosecution of this application.

To the extent indicated above, the petition is **granted**.

The application will be forwarded to the Office of Patent Application Processing to process the application with a filing date of January 25, 2008, using the four (4) sheets of drawing (Figures 1, 3, 4, 5, 6, and 7) submitted on that date. The Office is further directed to scan one (1) drawing sheet (Figures 2a and 2b) of the Swiss priority document provided on January 25, 2008, and to indicate that five (5) sheets of drawings were present on filing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Vadim V. Ivanov	: DECISION ON REQUEST FOR
Patent Number	: 7583133	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/011,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **35** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

In re Application of :
DUBIN, Valery M. et al. :
Application No. 12/011,259 : DECISION ON PETITION
Filed: January 25, 2008 : TO WITHDRAW
Attorney Docket No. **110109-11** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2010.

The request is not approved because it is moot.

A review of the file record indicates that the power of attorney to BLACK LOWE & GRAHAM, PLLC has been revoked by the assignee of the patent application on May 10, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **NUTTER MCCLENNEN & FISH LLP**
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

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OFFICE OF PETITIONS

In re Application of

MARTIN, Robert C. et al.
Application No. 12/011,276
Filed: January 26, 2008
Attorney Docket No. **RCM 07274**

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 26, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the inventor's birth certificate as evidence that Robert C. Martin is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Initial Patent Examination to await a reply to the Notice to File Corrected Application Papers (Notice) mailed February 26, 2008. This application will be accorded "special" status when pre-examination processing is done.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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In re Application of :
MARTIN, Robert C. et **al.** :
Application No. 12/011,276 : DECISION ON PETITION
Filed: January 26, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **RCM 07274** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 03, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the inventor's driver's license as evidence that Robert C. Martin is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2617 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/011,326	01/25/2008	Jeong-Jae Won	SP7222-US (SAMS06-07222)	7741

7590 03/25/2010

DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

EXAMINER
FEILD, LYNN DIANA

ART UNIT	PAPER NUMBER
2400	

NOTIFICATION DATE	DELIVERY MODE
03/25/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/24/2010 [illegible]
[illegible]
[illegible] -310.00 OP
04 FC:1202 -200.00 OP

FORM PET651G (Rev. 08/07)

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OFFICE OF PETITIONS

BIOLOGICAL PATENT SERVICES LLC
8424 40th AVE N
NEW HOPE MN 55427

In re Application of :
Stephen Burton :
Application No. 12/011,336 : ON PETITION
Filed: January 5, 2008 :
Attorney Docket No. 200801 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, and the petition to revive under 37 CFR 1.137(b), both filed July 15, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the publication fee in response to the Notice of Allowance mailed March 24, 2009. This Notice set a statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 25, 2009. The Office mailed a Notice of Abandonment on July 14, 2009.

Petition under 37 CFR 1.181:

Petitioner states that while he paid the issue fee on March 27, 2009, he made an error on the Credit Card Form and as a result, omitted the payment of the publication fee. Petitioner requests that the holding of abandonment be withdrawn, on the basis of a miscellaneous internal document in PAIR, which states that the user should notify the applicant of the fee deficiency. Petitioner states that he never received such a notice.

Petitioner's argument has been considered, but is not persuasive. It is applicant's responsibility to ensure that the issue and publication fees are timely paid. No Office error took place in this instance. Petitioner has not cited to any statute, rule, or Office practice as set forth in the Manual of Patent Examing Procedure which states that the Office must notify applicant of a fee deficiency in responding to a Notice of Allowance.

Petition under 37 CFR 1.137(b):

With the instant petition, petitioner has paid the petition fee, submitted the required reply in the form of the publication fee, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 0 9 2008

Jonathan R. Harris
15727 Tylermont Drive
Cypress, TX 77429

In re Application of :
Lev and Harris : LETTER
Application No. 12/011,363 :
Filed: January 25, 2008 :
Attorney Docket No: 200701415-1 :
KEYBOARD ILLUMINATION SYSTEM

Dear Inventor Harris:

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 joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of :
Lev and Harris :
Application No.: 12/011,363 : DECISION ACCORDING
Filed: January 25, 2008 : RULE 47(a) STATUS
Attorney Docket No: 200701415-1 :
KEYBOARD ILLUMINATION SYSTEM

This is in response to the petition under 37 CFR 1.47(a), filed May 2, 2008 (certificate of mailing dated April 28, 2008).

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on January 25, 2008, without a properly executed declaration. On February 27, 2008, the Office Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration, and surcharge. The instant petition was filed responsively on May 2, 2008.

Petitioner has shown that inventor Harris cannot be located join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Patent Application Processing for further review.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : November 6, 2009

Patent No. :pp19572
Inventor :Rolf Kurg ZORNIG
Patent Issued :December 16, 2008
Title :GUSMANIA PLANT NAMED 'BEL-AIR'

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.

Inspection of the application for the patent reveals that in connection with the alleged errors as disclosed in applicants request for correction pertaining locations within the title, specification, claims as well as the abstract: the printed data in the letters patent with regard to applicants request is considered in accordance with the records within the Patent and Trademark . Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 37 CFR 1.322.

In view of the foregoing applicants request in this matter is hereby denied.

However, to further consider the request regarding this matter, a request for reconsideration filed under 37 CFR 1.323, referencing column and line numbers for errors located within the specification, as well as, title, claims and abstract errors should also be referenced by location. In addition, a certificate of correction fee of $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledgement of receipt.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

/A. Green/

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Catherine Anne Whealy
P.O. Box 161939
Fort Worth, TX 76161-1939

/arg

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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
401 W FALLBROOK AVE STE 204
FRESNO CA 93711-5835

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Lokesh Prem Harjani	:	
Application No. 12/011,416	:	DECISION ON PETITION
Filed: January 24, 2008	:	TO WITHDRAW
Attorney Docket No. FIP-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 March 20, 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 Andrew D. Fortney on behalf of all attorneys of record who are associated with customer No. 36872. All attorneys/agents associated with the Customer Number 36872 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: LOKESH PREM HARJA
101 RITU APARTMENTS
10TH FLOOR
DONGARSI ROAD, MALABAR HILL
MUMBAI, INDIA 400006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/011,416	01/24/2008	Lokesh Prem Harjani	FIP-003

CONFIRMATION NO. 8158

36872
THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
401 W FALLBROOK AVE STE 204
FRESNO, CA 93711-5835

POWER OF ATTORNEY NOTICE

OC000000035491060

Date Mailed: 04/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Shuichi Koganehira	: DECISION ON REQUEST FOR
Patent Number	: 7604692	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/011,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2008	: 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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JAMES M. POWERS
3 SANTA LUCIA AV.
ORMOND BEACH, FL 32174

COPY MAILED

MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
POWERS, James M. :
Application No. 12/011,555 : DECISION ON PETITION
Filed: January 28, 2008 : 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 February 21, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the driver's license of inventor James M. Powers, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3671 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Ashok Tankha
Of Counsel, Lipton, Weinberger & Husick
36 Greenleigh Drive
Sewell NJ 08080

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OCT 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Raghunath Govindachari et al.	:	
Application No. 12/011,556	:	DECISION ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No. Mindtree_02	:	

This is a decision on the petition under 37 CFR 1.59(b), filed June 3, 2009, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the original specification be expunged from the record.

However, 37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

Accordingly, the original specification will not be expunged from the record pursuant to 37 CFR 1.59(b) even though it was mistakenly filed. Moreover, petitioner has not established that an extraordinary situation exits in which justice requires the requested expungement pursuant to a waiver of 37 CFR 1.59(a)(2) under 37 CFR 1.183, as discussed in MPEP 724.05 IV.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Ashok Tankha
Of Counsel, Lipton, Weinberger & Husick
36 Greenleigh Drive
Sewell NJ 08080

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JAN 29 2010

In re Application of	:	
Raghunath Govindachari	:	
Application No. 12/011,556	:	DECISION ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No. Mindtree_02	:	

This is a decision on the renewed petition under 37 CFR 1.59(b), filed November 12, 2009 , to expunge information from the above identified application.

The petition is **dismissed**.

The petition is deficient because it is unsigned and is thus not in compliance with 37 CFR 1.33(b). No consideration on the merits can be given until a properly signed petition is received.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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MAY 10 2010

OFFICE OF PETITIONS

Ashok Tankha
Of Counsel, Lipton, Weinberger & Husick
36 Greenleigh Drive
Sewell NJ 08080

In re Application of	:	
Raghunath Govindachari et al.	:	
Application No. 12/011,556	:	DECISION ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No. Mindtree_02	:	

This is a decision on the request for reconsideration of petition to expunge under 37 CFR 1.183 and 37 CFR 1.59(b), filed February 26, 2010.

The petitions are **dismissed**.

As to the petition under 37 CFR 1.183:

The petition requests waiver of the requirements of 37 CFR 1.59(a)(2). The petition avers that the wrong specification and drawings were entered by the Office as the specification and drawings for the above identified application. Petitioner states that if the Office does not expunge the current specification and drawings and enter the proper specification and drawings, petitioner will be unable to attain proper patent protection as they will be barred from refiling the application.

37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

Petitioner argues that failure to process the proper specification and drawings was the fault of the Office. The argument is based on the fact that the current specification page count (13) does not match the page count in the application transmittal form or the post card receipt (18). This argument is confusing as petitioner admits the page count on the transmittal form and post card receipt contained a typographical error showing 18 pages instead of 28 pages.

Petitioner argues that the Office was in error for not mailing a Notice of Incomplete Application or a Notice of Missing Parts which would have would have given applicants time to correct deficiencies in the original specification by providing the alleged missing pages. The specification as filed was complete in and of itself so there was no reason to send a Notice of Incomplete Application. It is not known why a Notice of Missing Parts or annotated post card receipt (showing receipt of only 13 pages of specification) was not sent.

If the Office had sent a notice or had annotated the post card receipt, petitioner would still not have been able to take corrective action in providing the "proper" 28 page specification. Substituting a 28 page substitute specification for a 13 page specification would surely have involved the addition of new matter based on the 13 page specification. The figures shown in the four sheets of drawings of the 13 page specification are different than the figures shown in the four sheets of drawings associated with the 28 page specification and thus providing the 28 page specification in place of the 13 page specification would have not been accepted as the drawing figures would not match the substituted specification.

Finally, and perhaps more importantly, petitioner has not discussed how the current 13 page specification could be erroneously entered and the desired 28 page specification was not. There is no indication that two specifications were filed on the filing date of January 28, 2008. There was only one specification filed on that date and it is the current 13 page specification. The petition is totally silent on the origins of the 13 page specification if it is in fact the wrong one.

The record to date indicates petitioner filed the current 13 page specification. The fact that this was not the specification petitioner intended to file was not the fault of the Office. Even if the Office had sent some form of notification of improper page count, petitioner would not have been able to take the desired corrective action. Thus there is no extraordinary situation requiring suspension or waiver of any regulations. For this reason the petition is dismissed.

While the originally filed specification cannot be expunged, it is noted that the specification may be amended to include the inadvertently omitted portion of the specification under 37 CFR 1.57(a) because a claim under 37 CFR 1.55 for priority to a foreign filed application was presented on the filing date of the application. The inadvertently omitted portion of the specification or drawings must be completely contained in the foreign filed application. The originally filed specification can be further amended by cancelling unwanted portions by appropriate amendment to the specification.

In regard to the renewed petition under 37 CFR 1.59(a):

Petitioner requests that the original specification be expunged from the record in view of the petition under 37 CFR 1.183. As indicated, the petition under 37 CFR 1.183 is not granted.

Accordingly, the original specification will not be expunged from the record pursuant to 37 CFR 1.59(b). For this reason the petition is dismissed.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Linda Shayne
Suite D
840 21st Street
Santa Monica CA 90403

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Linda Shayne	:	
Application No. 12/011,560	:	DECISION ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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 Corrected Application Papers (Notice), mailed February 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 27, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Petitioner has submitted $105 for payment for the petition fee, however, effective October 2, 2008, the fees have increased and the independent claims over 3 is now $110. Therefore, the remaining balance of $5 is due. The items mention above must be submitted before the instant petition can be revived.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Document Code: IMIS

Notice of Fee Due

Date: 12/13/08

Application Number: 12/044,560

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☑ Insufficient payment by check or money order.
- ☐ Insufficient funds in deposit account _____ at ____:____ (time).
- ☐ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☑ No authorization to charge a deposit account.

Fee code(s) to be applied:	2201	$110-00
Amount in holding fee code:	1506	
	1622/2622	$105-00
	1999	

Total remaining due from applicant: $5.00

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Linda Shayne
Suite D
840 21st Street
Santa Monica CA 90403

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Linda Shayne :
Application No. 12/011,560 : DECISION ON PETITION
Filed: January 28, 2008 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 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 February 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 27, 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 additional claim fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

30 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

In re Application of
KINOSHITA *et al*
Application No.: 12/011,565
Filing Date: January 25, 2008
Attorney Docket No.: 81078US (70904)
For: SOLDER MOUNTING STRUCTURE METHOD FOR MANUFACTURING SUCH SOLDER MOUNTING STRUCTURE AND USE OF SUCH SOLDER MOUNTING STRUCTURE

DECISION

This decision is in response to the petition filed April 23, 2008.

BACKGROUND

On January 25, 2008, applicants filed patent application papers with the USPTO which included a Utility Patent Application Transmittal letter (PTO/SB/05).

On February 11, 2008, a Notice to File Missing Parts of Nonprovisional Application was mailed.

On April 23, 2008, applicants filed the subject petition via facsimile.

DISCUSSION

Applicants request that the Office treat the above-captioned application as the national stage filing under 35 U.S.C. 371 of PCT/JP2006/314379 and filed the subject petition under 37 CFR 1.182. The $400.00 petition fee has been charged to Deposit Account No. 04-1105 as authorized.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) states, in part, that: "[i]f there are **any** conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111." (Emphasis added).

A review of the above-captioned application reveals that the above-captioned application was properly treated by the Office as a filing under 35 U.S.C. 111(a). The

Utility Patent Application Transmittal letter filed January 25, 2008 states under the title that the papers were "[o]nly for new nonprovisional applications under 37 CFR 1.53(b)." Application papers submitted under 37 CFR 1.53(b) are filed under 35 U.S.C. 111(a). There are no provisions allowing the Office to disregard these papers containing the conflicting instructions regardless of instructions elsewhere in the application papers.

Nonetheless, applicants contend that "a single erroneous submission" should not be considered to be "conflicting instructions." This is clearly not the case. *See* MPEP §1893.03(a).[1]

DECISION

For the reasons discussed above, applicants' petition under 37 CFR 1.182 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 further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

---

[1] MPEP §1893.03(a) states, in part:

A conflicting instruction will be present, for example, where applicant includes in the initial submission under 35 U.S.C. 371, a "Utility Patent Application Transmittal" (Form PTO/SB/05).

20 MAR 2009

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24737
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

In re Application of
KINOSHITA *et al*
Application No.: 12/011,565
Filing Date: January 25, 2008
Attorney Docket No.: 81078US(70904)
For: SOLDER MOUNTING STRUCTURE, METHOD FOR MANUFACTURING SUCH SOLDER MOUNTING STRUCTURE AND USE OF SUCH SOLDER MOUNTING STRUCTURE

DECISION

This application is before the PCT Legal Staff for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On January 25, 2008, applicants filed the following papers under attorney docket number 81078US(70904): Utility Patent Application Transmittal; Transmittal Letter to the United States Designated Elected Office; DEC/POA of the inventors; Specification excluding claims; 18 claims; 14 Drawings; Abstract; Fee Transmittal; Preliminary Amendment; Assignment; a Copy of international application PCT/JP2006/314379; Specification Cover Sheet; a Certificate of Express Mailing; Application Data Sheet; References; and a Return Receipt Postcard. These papers were processed as two different applications, U.S. Application No. 12/011,565 and U.S. Application No. 11/989,536.

On April 23, 2008, applicants filed a petition to convert the subject application (U.S. Application No. 12/011,565) for treatment as the national stage of PCT/JP2006/314379 under 35 U.S.C. 371.

On May 30, 2008, a decision dismissing applicants' request was mailed.

On June 11, 2008, a Notice to File Missing Parts of Nonprovisional Application was mailed the subject application.

On October 2, 2008, a Notice of Publication of Application was mailed in the subject application.

On January 15, 2009, 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 in U.S. Application No. 11/989,536.

DISCUSSION

The Office erroneously separated the papers filed January 25, 2008 into two different applications: U.S. Application No. 12/011,565 and U.S. Application No. 11/989,536. The papers were intended as a single application.

The subject application (U.S. Application No. 12/011,565) was processed as an application under 35 U.S.C. 111(a). Applicants petitioned the Office to treat the application as a filing under 35 U.S.C. 371 as the national stage of PCT/JP2006/314379. However, this request was dismissed due to the inclusion of the Utility Patent Application Transmittal (Form PTO/SB/05) which is considered conflicting information. *See* § 1893(a) MPEP.

U.S. Application No. 11/989,536 was processed as the national stage of PCT/JP2006/314379 under 35 U.S.C. 371.

DECISION

U.S. Application No. 11/989,536 will be merged into U.S. Application No. 12/011,565.

All fees charged in U.S. application No.11/989,536 have been credited back to Deposit Account No. 04-1105.

Applicants are advised that U.S. application No. 11/989,536 is no longer a valid U.S. application. Applicants may disregard the Form PCT/DO/EO/905 mailed January 15, 2009. Applicants are also advised that there is no longer a national stage application for PCT/JP2006/314379 under 35 U.S.C. 371.

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

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JUN 23 2008

Paper No.

TERESA M. SUTER
6050 CALIFORNIA CIRCLE
APT. 408
ROCKVILLE MD 20852

In re Application of	:	
TERESA M. SUTER	:	
Application No. 12/011,575	:	DECISION ON PETITION
Date of Deposit: January 28, 2008	:	PURSUANT TO 37 C.F.R. § 1.53
Title: BUTTON COVER ADAPTER FOR JEANS	:	

This is a decision on the petition filed April 19, 2008, requesting that the above-identified application be accorded a filing date of January 28, 2008 with pages 15-17 of the specification (containing claims 1-7) as part of the original disclosure of the application.

The application was deposited on January 28, 2008. However, on February 19, 2008, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had NOT been accorded a filing date, and that a filing date would be accorded upon the filing of at least one claim. The notice further indicated that replacement drawings would be required, and set a two-month period for response.

The present petition was subsequently filed on April 19, 2008, along with, *inter alia*, the petition fee, 3 pages of claims

containing claims 1-7 (numbered pages 15-17), and 6 pages of replacement drawings containing Figures 1-6.

The electronic file has been reviewed: 15 pages of specification (consisting of a title page and numbered pages 1-14) and 0 pages of claims have been located that were present on January 28, 2008.

With this petition, Petitioner has asserted that 18 pages of specification (a cover page along with numbered pages 1-17, with the claims present on pages 15-17) were included on filing. Petitioner has further indicated that the drawings that were included on initial deposit were intended to be informal.

Regarding the drawings, since Petitioner has indicated that the corrected drawings were not present on filing, Petitioner will need to submit a newly executed oath or declaration[1].

Regarding the three pages of claims (pages 15-17 of the specification) that were purportedly submitted on filing, M.P.E.P. § 503 sets forth, *in pertinent part*:

> RETURN POSTCARD
>
> **If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item.** To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard. >Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO, may be discarded.<
>
> The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. **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.**

1 See notice of February 19, 2008.

> The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.
>
> The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.
>
> Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. 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.
>
> (Emphases added).

As set forth above, Petitioner has alleged that three pages of claims (pages 15-17 of the specification) were included on filing. The PTO has a well-established and well-publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any

paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. 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[2].

The petition has been reviewed, and it does not appear that a copy of a postcard receipt has been included.

Petitioner has not submitted the evidence required to establish that the pages of the specification in question were provided to the Office on January 28, 2008. As such, the petition is **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 pursuant to 37 C.F.R. § 1.53." This is not a final agency action within the meaning of 5 U.S.C § 704.

On renewed petition, Petitioner should present a copy of the postcard receipt in order to establish that these 3 pages of specification containing claims 1-7 were included with the filing of January 28, 2008. Without a postcard receipt which serves a prima facie evidence that the figures in question were presented to the Office on January 28, 2008, it does not appear that Petitioner will be able to establish that the relevant pages were included on initial deposit. If this is the case, Petitioner is not in a position to have the claims entered and have the application accorded a filing date of January 28, 2008.

Alternatively, the submission of a paper requesting the dismissal of this petitions and the acceptance of the according of a filing date of April 19, 2008 (the date on which at least one claim was deposited with the Office) would be considered a fully-responsive reply.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Registered

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2 See M.P.E.P. § 503, the pertinent portion of which has been reproduced above.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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

Paper No.

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OCT 10 2008

OFFICE OF PETITIONS

TERESA M. SUTER
6050 CALIFORNIA CIRCLE
APT. 408
ROCKVILLE MD 20852

In re Application of	:	
TERESA M. SUTER	:	
Application No. 12/011,575	:	DECISION ON RENEWED
Filed: April 19, 2008	:	PETITION PURSUANT TO
Title: BUTTON COVER ADAPTER FOR JEANS	:	37 C.F.R. § 1.53
	:	

This is a decision on the renewed petition filed August 20, 2008, requesting that the above-identified application be accorded a filing date of April 19, 2008 with pages 15-17 of the specification (containing claims 1-7).

Receipt of the concurrently submitted newly executed declaration is acknowledged.

The application was deposited on January 28, 2008. However, on February 19, 2008, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had NOT been accorded a filing date, and that a filing date would be accorded upon the filing of at least one claim. The notice further indicated that replacement drawings would be required, and set a two-month period for response.

An original petition was filed on April 19, 2008, along with, *inter alia*, the petition fee, 3 pages of claims containing claims

1-7 (numbered pages 15-17), and 6 pages of replacement drawings containing Figures 1-6.

With this renewed petition, Petitioner has included a statement indicating that she accepts the date of deposit of the formerly omitted three pages of claims as the filing date.

This renewed petition is **GRANTED**.[1]

The Office of Patent Application Processing will be advised to process this application with a **filing date of April 19, 2008**, using the original application papers deposited on January 28, 2008, as well as the three pages of claims submitted with the original petition on April 19, 2008. **OPAP will then mail a corrected filing receipt**.

OPAP will note that the drawings submitted on April 19, 2008 cannot be entered, as it has been recently noted that they are not in compliance with 37 C.F.R. § 1.121(d).[2, 3]

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.[4]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 It is noted that on page 4 of the decision on the original petition, it was set forth that the request to accord this application a filing date of April 19, 2008 should be framed as a request to dismiss the renewed petition. The Office has reconsidered its position on the matter.

2 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"**.

3 Petitioner may wish to submit replacement drawings that are properly labeled as such, along with a newly executed declaration.

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEVIN LYNN WILDENSTEIN
SOUTHWEST INTELLECTUAL PROPERTY SERVICES, LLC
BLD.4
9400 HOLLY AVENUE NE
ALBUQUERQUE NM 87122

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OCT 0 3 2008

OFFICE OF PETITIONS

In re Application of :
SAIGH, Michael et al. :
Application No. 12/011,577 :
Filed: January 28, 2008 :
Attorney Docket No. **PMNS** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Kevin Wildenstein, the sole attorney of record. Kevin Wildenstein Kevin has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Michael Saigh 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: **MICHAEL SAIGH**
2762 LOOKOUT RIDGE DRIVE
LAS CRUCES NM 88011

cc: **KEVIN ARNDT**
127 EAST MOUNTAIN TOP ROAD
SUMMIT HILL PA 18250

WEST Search History for Application 12018593

Creation Date: 2009022514:22

Query	DB	Op.	Plur.	Thes.	Date
(reallocat$3 and upgrad$3) near3 eevnt$1	PGPB, USPT	OR	YES		02-25-2009
(reallocat$3 and upgrad$3) near3 event$1	PGPB, USPT	OR	YES		02-25-2009
(allocat$3 and upgrad$3) near3 event$1	PGPB, USPT	OR	YES		02-25-2009
((allocat$3 and upgrad$3) near3 event$1) and award$3	PGPB, USPT	OR	YES		02-25-2009
(allocat$3 and upgrad$3) near3 event$1	JPAB	OR	YES		02-25-2009
(upgrad$3) near3 event$1	JPAB	OR	YES		02-25-2009
award$3 near3 event$1	JPAB	OR	YES		02-25-2009

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P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD P. DUTKIEWICZ, P.A.
EDWARD P. DUTKIEWICZ
P.O. BOX 937
DADE CITY FL 33526

MAILED

APR 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Antici, Roger	:	
Application No. 12/011,620	:	ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No. ANTICI 01/08	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREGORY WALKER JOHNSON
516 DAKOTA ST
DAYTON OH 45402

APR 14 2008

In re Application of: Johnson
Serial No.: 12/011644
Filed: January 29, 2008
Title: DUAL HIP CELL PHONE AND CD PLAYER POCKET

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 7, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must

meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. **Special status based upon infringement is no longer provided for by the policy**. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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P.O. Box 1450
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JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543

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AUG 18 2008

OFFICE OF PETITIONS

In re Application of :
Thierry TAPIE et al. :
Application No. 12/011,655 : DECISION ON PETITION
Filed: January 29, 2008 :
Attorney Docket No. PF070013 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 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 February 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required specification and declaration (2) the petition fee of $1,540.00; 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 February 26, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTOPHER JOHN RUDY
209 HURON AVENUE, SUITE 8
PORT HURON, MI 48060

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of :
Raymond Barylski et al :
Application No. 12/011,686 : DECISION ON PETITION
Filed: January 29, 2008 : TO WITHDRAW
Attorney Docket No. STOPBLOCK-770 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 10, 2009.

The request is **APPROVED**.

The request was signed by Christopher John Rudy on behalf of the practitioners of record associated with Customer No. 41324.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Raymond Barylski 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: Raymond Barylski
1251 Water St.
Port Huron, MI 48060

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/011,686	01/29/2008	Raymond Barylski	STOPBLOCK-770

CONFIRMATION NO. 9113

41324
CHRISTOPHER JOHN RUDY
209 HURON AVENUE, SUITE 8
PORT HURON, MI 48060

POWER OF ATTORNEY NOTICE

OC000000036906305

Date Mailed: 07/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/10/2009.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/011,686	01/29/2008	Raymond Barylski	STOPBLOCK-770

CONFIRMATION NO. 9113

Raymond Barylski
1251 Water St.
Port Huron, MI 48060

POA ACCEPTANCE LETTER

OC00000036906340

Date Mailed: 07/15/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/10/2009.

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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ALEXANDRIA, VA 22313-1450
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TERRANCE A. MEADOR
INCAPLAW
1050 ROSCRANS STREET, SUITE K
SAN DIEGO CA 92106

MAILED

FEB 27 2009

OFFICE OF PETITIONS

Applicant: Anderson
Appl. No.: 12/011,699
Filing Date: January 29, 2008
Title: WARMING DEVICE
Attorney Docket: AUGF08000009
Pub. No.: US 2008/0125840 A1
Pub. Date: May 29, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 16, 2008, for the above-identified application. Material Office error was alleged in omission of the first three pages of applicant's originally filed specification in the publication.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

SASTRY K. GANTI
1074 CROFTON LANE
BUFFALO GROVE IL 60089-4114

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Sastry K. Ganti	:	DECISION ON PETITION
Application No. 12/011,758	:	TO MAKE SPECIAL
Filed: January 30, 2008	:	37 CFR 1.102(C)
Attorney Docket No. GANTI-CLMP	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 29, 2009 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the 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 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3773 for action on the merits commensurate with this decision.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 20 2008

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

In re Application of	:	
IIDA et. al.	:	DECISION ON REQUEST TO
Application No. 12/011,759	:	PARTICIPATE IN PATENT
Filed: January 29, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 8279.1284US01	:	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 March 25, 2008, 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 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 fails to comply with the requirement because:

The petition does not include a copy of the allowable/patentable claim(s) and the office actions from the JPO application (in Japanese). The petition includes only an English translation of the allowable claims and office actions.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Ram R. Shukla at 571-272-8300.

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 08 2008

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

In re Application of	:	
IIDA et. al.	:	DECISION ON REQUEST TO
Application No. 12/011,759	:	PARTICIPATE IN PATENT
Filed: January 29, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 8279.1284US01	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This letter is in response to the Request for Reconsideration filed June 3, 2008 to reconsider the Dismissal Decision of May 20, 2008 on the request of the petition to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed March 25, 2008, to make the above-identified application special.

BACKGROUND

On May 20, Applicants' request and petition to participate in the PPH program was denied as the request did not include a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) in Japanese.

DISCUSSION

In their request for reconsideration, Applicants provided a copy of the office actions in Japanese and a copy of the Electronic Acknowledgement Receipt for the petition request. All the requirements for the PPH petition are met.

Accordingly, the request for reconsideration and petition are **GRANTED.**

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Ram R. Shukla/

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

John R. Ross
Trex Enterprises Corp.
10455 Pacific Center Ct
San Diego CA 92121

COPY MAILED
JAN 12 2009

In re Application of
Thomas Lambert, et. Al.
Application No. 12/011,797
Filed: January 29, 2008
Attorney Docket No. 818

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2008, to revive the above-identified application.

The petition is **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 file a complete reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 22, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 23, 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) 2.

On November 21, 2008, petitioner submitted a filing fee of $770 for a petition to revive an unintentionally abandoned application. However, effective October 2, 2008 the fee was increased to $810. Therefore, the $770 fee will be credited towards the $810 fee, leaving a balance of $40 to be submitted before reinstatement can occur.

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 Denise Williams at (571) 272-8930.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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John R. Ross
Trex Enterprises Corp.
10455 Pacific Center Ct
San Diego CA 92121

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Thomas Lambert, et. al. :
Application No. 12/011,797 : DECISION ON PETITION
Filed: January 29, 2008 :
Attorney Docket No. 818 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2009, to revive the above-identified application.

The renewed petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a properly executed declaration, 3 pages of replacement drawings and the $65 for the surcharge fee, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

Brian W. Brown
Petitions Examiner
Office of Petitions

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Takashi Oyanagi	: DECISION ON REQUEST FOR
Patent Number	: 7604693	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/011,834	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2008	: 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.
12/011,884	01/30/2008	Kenneth P. Parker	10060775-02	1043

7590 12/14/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
DOLE, TIMOTHY J	
ART UNIT	**PAPER NUMBER**
2831	
NOTIFICATION DATE	**DELIVERY MODE**
12/14/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

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MAR 19 2009

OFFICE OF PETITIONS

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

In re Application of Weimann :
Application No. 12/011,912 : Decision on Petition
Filing Date: January 30, 2008 :
Attorney Docket No. WEIMANN-1 :

This is a decision on the petition filed November 6, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office mailed a Notice to File Missing Parts of Nonprovisional Application on February 27, 2008, requiring the submission of an executed oath or declaration and a surcharge of $130. The Notice set a period for reply of two (2) months from the mail date of the Notice.

The Office did not receive a reply or a request for an extension of time in response to the February 27, 2008 Notice. As a result, the application became abandoned on Tuesday, April 29, 2008.

A Notice of Abandonment was mailed October 31, 2008.

The instant petition, an executed declaration, and surcharge of $130 were filed November 6, 2008.

Petitioner contends the Notice to File Missing Parts was never received.

MPEP 711.03(c)(I)(A) discussed the requirements to prove non-receipt of an Office action and states in part,

> 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.

Petitioner has not provided a statement that a search of the firm's records, including the file jacket or the equivalent, and the application contents, has been performed. Therefore, the petition cannot be granted at this time. Any request for reconsideration should include the required statement.

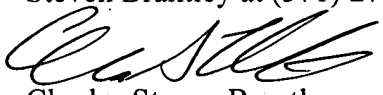
Further correspondence with respect to this matter should be addressed as follows:

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

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1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of Weimann :
Application No. 12/011,912 : Decision on Petition
Filing Date: January 30, 2008 :
Attorney Docket No. WEIMANN-1 :

This is a decision on the petition filed April 8, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

The Office mailed a Notice to File Missing Parts of Nonprovisional Application on February 27, 2008, requiring the submission of an executed oath or declaration and a surcharge of $130. The Notice set a period for reply of two (2) months from the mail date of the Notice. The Office did not receive a reply or a request for an extension of time in response to the February 27, 2008 Notice. A Notice of Abandonment was mailed October 31, 2008.

Petitioner contends the Notice to File Missing Parts was never received.

Petitioner has supplied sufficient evidence to establish non-receipt of the Notice to File Missing Parts. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner supplied the missing items noted in the Notice to File Missing Parts with a previously filed petition.

The Office of Patent Examination Processing (OPAP) will be informed of the instant decision and will prepare the application for processing in due course. OPAP may wish to note OPAP does not need to mail a new Notice to File Missing Parts because a declaration and the required surcharge were paid on November 6, 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/011,938	01/30/2008	Kenneth P. Parker	10060654-02	1280

7590 12/11/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
NATALINI, JEFF WILLIAM	
ART UNIT	**PAPER NUMBER**
2831	
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 MFARMER
02/01/2008 SSITHI01 00000011 501078 12011938
02 FC:1111 510.00 CR
04 FC:1201 210.00 CR
05 FC:1202 350.00 CR

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ANNE DONOHUE
C/O WARREN E. SMALL, ESQ
P.O. BOX 1650
PEBBLE BEACH, CA 93953-1650

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of :
DONOHUE, Anne :
Application No. 12/011,945 : DECISION ON PETITION
Filed: January] 30, 2008 : 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 January 30, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the statement of inventor Anne Donohue, attesting to her age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Patent Application Processing at 571-272-4000.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
12/011,963	01/29/2008	Hyuk-jin Kim	AB-2491 US	1439

7590 04/10/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
04/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/10/2009 NFARMER
02/01/2008 WASFAWI 00000001 502257 12011963
02 FC:1111 510.00 CR
04 FC:1202 400.00 CR

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BRUCE L. ADAMS, ESQ
ADAMS & WILKS
SUITE 1231
17 BATTERY PLACE
NEW YORK, NY 10004

Mail Date: 05/04/2010

Applicant	: Kazumichi Obara	: DECISION ON REQUEST FOR
Patent Number	: 7619175	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/011,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **97** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/012,021	01/31/2008	John Elliott McDermid	10070236-01	1998

7590 12/03/2009

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INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
BARBEE, MANUEL L	

ART UNIT	PAPER NUMBER
2857	

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.

Patent Publication Branch
Office of Data Management

Adjustment date: 12/02/2009 NFARMER
02/01/2008 HMARZI1 00000070 501078 12012021
02 FC:1111 510.00 CR

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DR. EDGAR L. SHRIVER
APT 1715
3600 MYSTIC POINTE DR.
AVENTURA, FL 33180

COPY MAILED

FEB 29 2008

In re Application of :
SHIVER, Edgar L. :
Application No. 12/012,086 : DECISION ON PETITION
Filed: January 31, 2008 : 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 January 31, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Edgar L. Shriver attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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APR 05 2010

OFFICE OF PETITIONS

DR EDGAR L SHRIVER
APT 1715
3600 MYSTIC POINTE DR
AVENTURA FL 33180

In re Application of :
Edgar L. Shriver :
Application No. 12/012,086 : ON PETITION
Filed: January 31, 2008 :
Title: Steering, Piercing, Anchoring, Distending Extravascular Guidewire

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 1, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 6, 2009. This Notice set a statutory period for reply of three months. Applicant paid part of the issue fee on October 16, 2009. No issue fee having been paid in full, the application became abandoned on January 7, 2010. The Office mailed a Notice of Abandonment on January 27, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the balance of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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LEGAL PATENT RECORDS CENTER
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4417 LANCASTER PIKE
WILMINGTON DE 19805

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OFFICE OF PETITIONS

In re Application of :
Tadashi Ishibashi et al. :
Application No. 12/012,102 : ON PETITION
Filed: January 31, 2008 :
Attorney Docket No. HP 0150 US NA :

This is in response to the PETITION TO ACCEPT INVENTORS DECLARATION AND POWER OF ATTORNEY LACKING A JOINT INVENTOR SIGNATURE AND STATEMENT OF FACTS UNDER 37 CFR 1.43, filed September 22, 2008 and which is being treated under 37 CFR 1.47(a).

A Notice to File Missing Parts was mailed February 26, 2008 noting that the oath or declaration was missing. The Notice set a two month period for response. A proper response to a Notice to File Missing Parts can be either an executed oath or declaration or a petition under 37 CFR 1.47. The instant petition is filed with a declaration signed by Hitomi Murase and a five month extension of time. The petition argues that Tadashi Ishibashi is deceased, and his ex-wife has executed the Declaration and Power of Attorney on his behalf.

In view of the submission of an oath or declaration executed by all of the joint inventors and by Hitomi Murase, there is no need to treat the petition under 37 CFR 1.47.

However, the declaration, filed September 22, 2008, does not comply with 37 CFR 1.63 and 1.64 since inventor Ishibashi is not indicated as deceased and the name of his ex-wife or legal representative is not set forth on the declaration. 35 U.S.C. § 117 provides that a legal representative may file a patent application on behalf of a deceased inventor. Accordingly, a new declaration, which is signed by the remaining inventors and sets forth the name of the deceased inventor, as well as the name, residence and citizenship of the ex-wife or legal representative of the deceased inventor, is **REQUIRED**. *See* MPEP § 409.03(a).

In view thereof, the petition filed September 22, 2008 is **DISMISSED** as involving moot issues and this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter however will be referred to the Office of Patent Application Processing for the mailing of a Notice of Incomplete Reply and or a Notice of Abandonment since the period for reply has expired, whichever is appropriate.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND OR 97209-2785

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JAN 19 2010

In re Application of :
Epley :
Application No. 12/012,109 : DECISION ON PETITION
Filed: January 30, 2008 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 103419-0017 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3767 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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/012,109	01/30/2008	3767	515	103419-0017	20	3

CONFIRMATION NO. 2063

CORRECTED FILING RECEIPT

35940
ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

OC000000039603234

Date Mailed: 01/12/2010

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)

John M. Epley, Portland, OR;

Power of Attorney: The patent practitioners associated with Customer Number 35940

Domestic Priority data as claimed by applicant

This application is a DIV of 11/039,556 01/20/2005 PAT 7,351,246
which claims benefit of 60/538,077 01/20/2004

Foreign Applications

If Required, Foreign Filing License Granted: 02/21/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/012,109**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
** **SMALL ENTITY** **

Title

Iontophoretic intra-tympanic drug delivery system

Preliminary Class

604

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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George R. Schultz
Schultz & Associates, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 1200
Dallas, TX 75240

MAILED

JUN 10 2010

OFFICE OF PETITIONS

In re Application of
Misty Johnson
Application No. 12/012,131
Filed: January 31, 2008
Attorney Docket No. 47853.0102

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) or 37 CFR 10.40, filed April 30, 2010.

The request is **NOT APPROVED**.

A review of the file record shows that power of attorney given to previous attorney/agent was revoked by the sole inventor of the above application on March 26, 2010. Accordingly, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed on June 3, 2010 that requires a response from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Misty Johnson
6207 Copperhill Drive
Dallas, TX 75248

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JUN 19 2009

OFFICE OF PETITIONS

Dan M. DeLaRosa, Esq.
Suite 24C
300 E 77th Street
New York NY 10075

In re Application of
Robert Demars
Application No.: 12/012,139
Filed: January 31, 2008
Attorney Docket No. P-0145 US

: ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed December 15, 2008. The instant petition will also be treated as a petition under 37 CFR 1.182 to accord the application a filing date of January 31, 2008, with Figures 64-68 as part of the original disclosure.

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.182 is also **granted.**

TREATMENT UNDER 37 CFR 1.137(b).

A "Notice to File Corrected Application Papers" (the "Notice") was mailed by the Office on February 25, 2008, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required replacement drawings to be filed. No responses were received within the allowable period and the application became abandoned on April 26, 2008. A Notice of Abandonment was mailed on October 31, 2008.

The replacement drawings filed December 15, 2008, are noted.

TREATMENT UNDER 37 CFR 1.182

It is also noted that the Notice to File Corrected Application Papers stated that Figures 64-68 as described in the specification appeared to have been omitted. As to this requirement, the Notice to File Corrected Application Papers set for an extendable period for reply of two months from its mailing date. It is noted that a timely response was not received and the application became abandoned on April 26, 2008.

The application is revived pursuant to the petition under 37 CFR 1.137(b) which is being granted by this decision. Applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, 50 sheets of drawings containing 70 figures were received on January 31, 2008.

Upon review of the record, Figures 64-68 have not been located among the application papers. However, the evidence is convincing that the application papers deposited January 31, 2008, included Figures 64-68 which were subsequently misplaced by the Office. The application, including Figures 64-68 as described in the specification was complete on filing and entitled to the presently accorded filing date of January 31, 2008.

This application is being directed to the Office of Patent Application Processing for further processing with a filing date of January 31, 2008, with figures 64-68 as part of the original disclosure.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Hawbaker et al.	:	Decision Noting Joinder of Inventor and
Application No. 12/012,208	:	Decision Dismissing Request for
Filed: January 31, 2008	:	Status Under 37 CFR 1.47 as Moot
Attorney Docket No. 2376.2104-000	:	

This is a decision on the petition under 37 CFR 1.47(a) filed June 25, 2008, as supplemented on August 27, 2008.

The petition filed June 25, 2008, requests the declaration be accepted without the signature of inventor Laidlaw. However, on August 27, 2008, petitioner filed a declaration signed by inventor Laidlaw.

In view of the joinder of the inventor, consideration under Rule 1.47(a) is unnecessary. Therefore, the petition is **dismissed as moot**.

The fee for a petition under 37 CFR 1.47 is $200. Petitioner only submitted $130. Therefore, $70 has been charged to petitioner's deposit account for the remainder of the fee.

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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EUGENE OAK
610 S. VAN NESS AVE
LOS ANGELES, CA 90005

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
HONG, Kwang Suk :
Application No. 12/012,273 : DECISION ON PETITION
Filed: February 02, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **911-9093** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 22, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include evidence, such as a doctor's certificate or medical certificate, showing the state of the applicant's health.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3781 for action in its regular turn.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436

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JUL 24 2008

In re Application of :
LAZAROF, Sargon :
Application No. 12/012,278 : DECISION ON PETITION
Filed: February 01, 2008 : TO WITHDRAW
Attorney Docket No. **22788-010** : 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

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OFFICE OF PETITIONS

POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.
12412 POWERSCOURT DR. SUITE 200
ST. LOUIS MO 63131-3615

In re Application of	:	
Brandon P. Gray et al	:	
Application No. 12/012,284	:	DECISION ON PETITION
Filed: February 1, 2008	:	
Attorney Docket No. ARDE D204US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed June 17, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3654 for appropriate action by the Examiner in the normal course of business on the reply received January 27, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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PHILADELPHIA PA 19103

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JAN 29 2009

OFFICE OF PETITIONS

In re Application of :
Dangtran et al. :
Application No.: 12/012286 : DECISION ON
Filing or 371(c) Date: 02/01/2008 : PETITION
Attorney Docket Number: IDI-06-1154R :

This is a decision in response to the correspondence filed December 19, 2008, wherein Applicant alleges non-receipt of a Notice to File Corrected Application Papers, mailed February 22, 2008. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (Notice"), mailed February 22, 2008. The Notice set a two (2) month period for reply. No reply having been received, the application became abandoned on April 23, 2008. A Notice of Abandonment was mailed October 29, 2008.

Applicant files the present petition and statement from the practitioner that the Notice was not received. Applicant asserts that the Notice, a copy of which appears in the file dated February 28, 2008, was not filed/returned by Applicant, and was apparently returned by the United States Postal Service ("USPS"). Applicant also files a statement from the Senior Docketing/Audit Specialist attesting to the nonreceipt of the Notice, and a copy of the docket record for the present application where the non-received Office communication would have been entered and docketed had it been received and docketed.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

Analysis/conclusion

Regrettably, the petition is not grantable at this time. The Office requirements for granting a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication has been modified. The Office requires 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. In addition, a copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the

nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Dangtran et al.	:	
Application No.: 12/012286	:	DECISION ON
Filing or 371(c) Date: 02/01/2008	:	PETITION
Attorney Docket Number: IDI-06-1154R	:	

This is a decision in response to the Renewed Petition to Revive Under 37 CFR 1.137(a), filed March 20, 2009, and supplemented April 28, 2009. The petition is properly treated as a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 (no fee).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (Notice"), mailed February 22, 2008. The Notice set a two (2) month period for reply. No reply having been received, the application became abandoned on April 23, 2008. A Notice of Abandonment was mailed October 29, 2008.

With the present renewed petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to the Office of Patent Application Processing for processing of the response to the Notice, filed on December 19, 2008, and for continued processing in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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601 SW SECOND AVENUE
SUITE 1600
PORTLAND, OR 97204-3157

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MAY 13 2010

OFFICE OF PETITIONS

In re Application of
Michael Czysz
Application No. 12/012,305
Filed: February 1, 2008
Attorney Docket No. DBH:8382.0024-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 22, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Donald B. Haslett on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed January 14, 2010 that requires a reply from the 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: MICHAEL CZYSZ
915 NE DAVIS STREET
PORTLAND, OR 94232-2933

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
12/012,305	02/01/2008	Michael Czysz	DBH:8382.0024-0001

CONFIRMATION NO. 2215

POWER OF ATTORNEY NOTICE

152
CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP
601 SW Second Avenue
Suite 1600
PORTLAND, OR 97204-3157

Date Mailed: 05/11/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/22/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Lee B. Max et al. :
Application No. 12/012,306 : DECISION REFUSING STATUS
Filed: February 1, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 8134P001 :

This decision is in response to the petition filed May 27, 2008 under 37 CFR 1.47(b) on May 27, 2008 which is being treated under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on February 1, 2008, without *inter alia* an oath or declaration. Accordingly, on February 27, 2008, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, and a declaration executed by all joint inventors except Lee B. Max, in their own stead and on behalf of the non-signing joint inventor was filed with a one month extension of time. Petitioner claims that joint inventor Max refuses to sign the declaration.

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. In the instant case, three inventors have been named but the oath or declaration

is missing the signature of only one of the named inventors, thus, this petition will be treated under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor only that the Combined Declaration/Power of Attorney and Assignment was included with a letter mailed May 20, 2008, a copy of letter has not been submitted with the instant petition.

Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that if after having received the complete application, the non-signing inventor refuses to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Additionally, the petition fee for a petition under 37 CFR 1.47 is set at $200, not $130 as has been indicated in the petition. Thus, petitioner's deposit account no. 02-2666 has been charged in the amount of $200.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the deficiencies have been cured.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions

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[1] MPEP 409.03(d).

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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NOV 23 2009

OFFICE OF PETITIONS

In re Application of
Lee B. Max et al.
Application No. 12/012,306
Filed: February 1, 2008
Attorney Docket No. 8134P001

:DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

This is a decision on the "Response to Missing Parts" filed September 28, 2009 and is treated as a request for reconsideration under 37 CFR 1.47(a)[1].

The above-identified application was filed on February 1, 2008, without *inter alia* an oath or declaration. Accordingly, on February 27, 2008, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. In response, a petition under 37 CFR 1.47, and a declaration executed by all joint inventors except Lee B. Max, in their own stead and on behalf of the non-signing joint inventor was filed with a one month extension of time. Petitioner claimed that joint inventor Max refused to sign the declaration.

The petition was dismissed in a decision mailed June 19, 2008 because petitioners had not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor only that the Combined Declaration/Power of Attorney and Assignment was included with a letter mailed May 20, 2008. Neither was a copy of the referenced letter submitted with the petition.

On September 28, 2009, papers filed included a declaration signed by joint inventor Le B. Max in compliance with 37 CFR 1.63.

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[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

In view of the joinder of the previously non-signing joint inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The request for reconsideration filed September 28, 2009 is **DISMISSED** as involving moot issues.

Since the instant petition is a renewed petition, no additional petition fees are due.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Massimino, et al.	:	
Application No. 12/012,317	:	DECISION ON PETITION
Filed: February 1, 2008	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P191	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this

benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1655 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Chris 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
12/012,317	02/01/2008	1655	2070	P191	34	4

CONFIRMATION NO. 3043

CORRECTED FILING RECEIPT

27752
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Date Mailed: 06/08/2010

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)

Stefan Patrick Massimino, Portland, OR;
Gary Mitchell Davenport, Dayton, OH;
Michael Griffin Hayek, Dayton, OH;
George Roth, Pylesville, MD;
Donald K. Ingram, Ellicott City, MD;

Power of Attorney: The patent practitioners associated with Customer Number 27752

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/898,788 02/01/2007
and is a CIP of 10/842,301 05/10/2004 PAT 7,666,459

Foreign Applications

If Required, Foreign Filing License Granted: 02/21/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/012,317**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for decreasing inflammation and stress in a mammal

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF
MONICA H CHOI
P O BOX 3424
DUBLIN OH 43016-0204

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Bae, et al. : DECISION ON PETITION
Application No. 12/012,348 :
Filed: 1 February, 2008 :
Attorney Docket No. S08-02

This is a decision on the petition filed on 30 July, 2008, under 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled: Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a), and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 CFR 1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See* MPEP §409.03, and §409.03(a), et seq.)

Applicant lacks: 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); and 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 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 1 February, 2008, without, inter alia, a fully executed oath/declaration.

On 28 February, 2008, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration (signed and dated) was required.

On 30 April, 2008, Petitioner replied in part to the Notice.

On 20 May, 2008, the Office mailed a Notice of Incomplete Reply (oath/declaration, surcharge).

On 30 July, 2008, Petitioner Monica H. Choi (Reg. no. 41,671) filed a request and fee for extension of time and a petition with, *inter alia*, an oath/declaration signed by Mr. Park and Mr. Oh (for themselves and on behalf of) but not the non-signing co-inventors Ki-Hong Kim and Mr. Jeong-Hoon Bae, and the statement of Petitioner and the statements of Min-suk Yum makes the express statement that Mr. Bae refused to Min-Suk Yum the request to sign/join in the oath/declaration and Hee-kyung Choi that the application sent to Mr. Bae was returned refused. However, Min-suk Yum makes the express statement that the only extent of the effort to reach Mr. Kim was to send an Email, which appears not to have been received, and to ask of co-inventors for contact information, which was unsuccessful—moreover the statement of Hee-kyung Choi clearly evidences that an address that was known not to be valid was all that was used to send a copy of the application to Mr. Kim, and that delivery was unsurprisingly unsuccessful. No other effort of any search was described—and it is noted that the Office will accept Email transmission only if there is clear acknowledgment of receipt and that the attached application documents could be read by the computer receiving them.

Petitioner must resolve these matters on any renewed petition.

Petitioner should make the appropriate search, and should that search reveal another address, the entire application must be sent to Kim pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.

Thus, the present incompleteness of the record makes granting of the instant petition inappropriate.

Any renewed petition should provide a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to the non-signing inventor. Petitioner is reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition under 37 C.F.R. §1.47(a) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300
ATTN: Office of Petitions

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF
MONICA H CHOI
P O BOX 3424
DUBLIN OH 43016-0204

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Bae, et al. : DECISION ON PETITION
Application No. 12/012,348 :
Filed: 1 February, 2008 :
Attorney Docket No. S08-02

This is a decision on the petition filed on 6 March, 2009, under 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled: Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a), and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 CFR 1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Again Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See* MPEP §409.03, and §409.03(a), et seq.)

Applicant lacks: 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); and 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 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 1 February, 2008, without, *inter alia*, a fully executed oath/declaration.

On 28 February, 2008, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration (signed and dated) was required.

On 30 April, 2008, Petitioner replied in part to the Notice.

On 20 May, 2008, the Office mailed a Notice of Incomplete Reply (oath/declaration, surcharge).

On 30 July, 2008, Petitioner Monica H. Choi (Reg. no. 41,671) filed a request and fee for extension of time and a petition with, *inter alia*, an oath/declaration signed by Mr. Park and Mr. Oh (for themselves and on behalf of) but not the non-signing co-inventors Ki-Hong Kim and Mr. Jeong-Hoon Bae, and the statement of Petitioner and the statements of Min-suk Yum makes the express statement that Mr. Bae refused to Min-Suk Yum the request to sign/join in the oath/declaration and Hee-kyung Choi that the application sent to Mr. Bae was returned refused. However, Min-suk Yum makes the express statement that the only extent of the effort to reach Mr. Kim was to send an Email, which appears not to have been received, and to ask of co-inventors for contact information, which was unsuccessful—moreover the statement of Hee-kyung Choi clearly evidences that an address that was known not to be valid was all that was used to send a copy of the application to Mr. Kim, and that delivery was unsurprisingly unsuccessful. No other effort of any search was described—Petitioners always are reminded that *the Office will accept Email transmission only if there is clear acknowledgment of receipt and that the attached application documents could be read by the computer receiving them.* The petition was dismissed on 8 December, 2008, for failure to satisfy the requirements under the regulation. Petitioner was requested to: make the appropriate search, and should that search reveal another address, the entire application must be sent to Messrs. Kim and Bae pursuant to

the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq; and resolve these matters on any renewed petition.

Petitioner filed a renewed petition on 6 March, 2009:

- and demonstrated that the previously non-signing inventor Mr. Kim had joined in the oath/declaration and so evidenced with a copy of the oath/declaration bearing his signature;

- however, as to the non-signing inventor Mr. Bae, rather than make the required showing Petitioner chose instead to lecture the Office and point to papers previously filed averring Mr. Bae's oral refusal to sign—but those papers contained no express statements that Mr. Bae made the statement to them, personally, and the declarations were general and failed to satisfy the showing set forth in the guidance in the Commentary at MPEP §409.03(d).

Petitioner's attentions are drawn to the guidance in the Commentary at MPEP §409.03(d).

Petitioner may present evidence of:

- a diligent effort to ascertain a current/reasonably believed to be last known address of the non-signing inventor with companion evidence of transmission of the entire application (description, claims, abstract, drawings) to the non-signing inventor at that address and his subsequent refusal to sign/join in the oath/declaration; or,

- upon the inventor's execution of the oath/declaration, submission of a copy thereof.

Thus, the present incompleteness of the record makes granting of the instant petition inappropriate.

Any renewed petition should provide a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to the non-signing inventor. Petitioner is reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition under 37 C.F.R. §1.47(a) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
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Alexandria, VA 22314

By FAX: (571) 273-8300
ATTN: Office of Petitions

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, 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

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

Mail Date: 04/22/2010

Applicant	: Robert James Baur	: DECISION ON REQUEST FOR
Patent Number	: 7604740	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/012,362	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SAILE ACKERMAN LLC
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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MAY 13 2010

OFFICE OF PETITIONS

In re Application of
Quentin Olson, et al.
Application No. 12/012,393
Filed: February 1, 2008
Attorney Docket No. TY06-003

DECISION ON PETITION

This is a decision on the petition, filed December 18, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 2, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 2, 2009.

Petitioner states that a timely reply was mailed via certificate of mailing on April 2, 2009, which included the following papers: a seven page amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 2, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 2, 2009 is hereby **withdrawn** and the application **restored** to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on April 6, 2009.

This application is being referred to Technology Center AU 3687 for appropriate action in the normal course of business on the reply received with petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

3-25-8

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

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

OIPE IAP22
MAR 24 2008
PATENT & TRADEMARK OFFICE

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	12/012,397	Confirmation Number	2317	Filing Date	2008-01-31
Attorney Docket Number (optional)	MOI 308B	Art Unit	3744	Examiner	TBD
First Named Inventor	William C. Pfefferle				
Title of Invention	Method for Producing Fuel and Power From a Methane Hydrate Bed Using a Gas Turbine Engine				

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

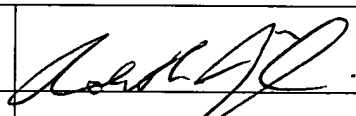
Given Name	Middle Name	Family Name	Suffix
William	C.	Pfefferle	Jr.

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		Date (YYYY-MM-DD)	2008-03-24
Name	Robert L. Rispoli	Registration Number	43884

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

3-25-8

PTO/SB/130 (03-08)
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OIPE IAP22
MAR 24 2008
PATENT & TRADEMARK OFFICE

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	12/012,398	Confirmation Number	2311	Filing Date	2008-01-31
Attorney Docket Number (optional)	MOI 308A	Art Unit	1795	Examiner	TBD
First Named Inventor	William C. Pfefferle				
Title of Invention	Method for Producing Fuel and Power From a Methane Hydrate Bed Using a Fuel Cell				

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

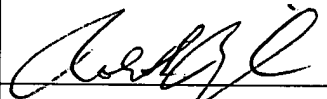
Given Name	Middle Name	Family Name	Suffix
William	C.	Pfefferle	Jr.

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		Date (YYYY-MM-DD)	2008-03-24
Name	Robert L. Rispoli	Registration Number	43884

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ROGERS TOWERS, P.A.
1301 RIVERPLACE BOULEVARD, SUITE 1500
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JUL 18 2008

In re Application of
Newman Stanley
Application No. 12/012,400
Filed: February 1, 2008
Attorney Docket No. **S1690.10U**

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed May 27, 2008, requesting that the above-identified application be accorded a filing date of February 1, 2008, with Pages 6-17 of the specification as a part of the original disclosure.

After the application was filed, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers which noted that the application had been accorded a filing date of February 1, 2008, but that Pages 6-17 of the specification (description and claims) appeared to have been omitted from the application.

In response, the present petition was filed. Petitioners argue that a complete application was present on February 1, 2008, for filing date purposes. Petitioners include a copy of the application as filed and argue that based on personal knowledge, believes that the full application, including pages 6-17 of the specification, was deposited in the USPTO on the filing date of the application.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, petitioners have not provided a postcard receipt (properly itemized) as proof of filing and thus, the petition is **DISMISSED**.

The copy of Pages 6-17 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

Petitioner may file Pages 6-17 as a preliminary amendment. If Pages 6-17 are filed as a preliminary amendment, the amendment will be reviewed for new matter.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

This matter is being referred to the Office of Patent Application Processing for further processing with a filing date of February 1, 2008, using the application papers filed on that date and not pages 6-17 of the specification submitted on petition.

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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SEP 04 2008

OFFICE OF PETITIONS

In re Application of
Newman Stanley
Application No. 12/012,400
Filed: February 1, 2008
Attorney Docket No. **S1690.10U**

: DECISION DISMISSING PETITION

This is a decision on the request for reconsideration filed July 28, 2008 under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of February 1, 2008, with Pages 6-17 of the specification as a part of the original disclosure. The petition is being treated under 37 CFR 1.182.

After the application was filed, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers which noted that the application had been accorded a filing date of February 1, 2008, but that Pages 6-17 of the specification (description and claims) appeared to have been omitted from the application. In a petition filed May 27, 2008, petitioners asserted that Pages 6-17 of the specification were included with the original application papers but the petition was dismissed in a decision mailed July 18, 2008 because no additional proof was submitted to substantiate the claim.

Comes now petitioner with a copy of a date-stamped postcard receipt as proof that a complete specification was filed with the original application papers and as the postcard receipt lacks any notation of non-receipt of any item listed, and a three month extension of time. The petition is **GRANTED**.

Given the basis for granting the petition, no petition fee is due and thus the petition fee in the amount of $400.00 submitted May 27, 2008 with the instant request for reconsideration, will be refunded in due course.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing, using the application papers received in the Office on August 22, 2006 and the papers, including pages 7 and 8 of the specification filed September 18, 2006.

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 L. HANNA
2602 37 TH STREET
ROCK ISLAND IL 61201

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SEP 25 2008

OFFICE OF PETITIONS

In re Application of :
HANNA, Robert L. :
Application No. 12/012,417 : DECISION ON PETITION
Filed: February 02, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 29, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The evidence submitted with the instant petition is a copy of Robert Hanna driver's license indicating that she is at least 65 years of age. Accordingly, the above-identified application will be accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3677 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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ROBERT C. CURFISS
19826 SUNDANCE DRIVE
HUMBLE TX 77346-1402

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Phuong Taylor Nguyen :
Application No.: 12/012,419 : ON PETITION
Filed: February 1, 2008 :
Attorney Docket No: Axxiom'419 :

This is in response to the petition under 37 CFR 1.137(b) filed January 8, 2009.

The petition under 37 CFR 1.137(b) is **granted**.

On February 28, 2008, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). A complete response was not received within the allowable period, and the application became abandoned on August 29, 2008. A Notice of Abandonment was mailed on December 24, 2008.

The drawings filed January 8, 2009, are noted and made of record.

This application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Robert C. Curfiss
19826 Sundance Drive
Humble, TX 77346-1402

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of Nguyen :
Application No. 12/012,419 : Decision on Petition
Filing Date: February 1, 2008 :
Attorney Docket No. Axxiom 419 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **granted**.

Facts

The Office mailed a non-final Office action on July 17, 2009. The Office action set a shortened statutory period for reply of three months.

The following items were filed January 18, 2010:

(1) Declaration (3 pgs.) that appears to be the same as the declaration filed August 15, 2008,
(2) Power of Attorney (1 pg.) that appears to be the same as the power of attorney filed August 15, 2008,
(3) Drawings (10 sheets) that appears to be the same as the drawings filed August 15, 2008,
(4) Specification (9 pgs.) that appears to be the same as the specification filed February 1, 2008,
(5) Claims (5 pgs.) that that appear to be the same as the claims filed February 1, 2008,
(6) Abstract (1 pg.) that appears to be the same as the abstract filed February 1, 2008,
(7) Electronic Acknowledgment Receipt (2 pgs.), and
(8) Electronic Patent Application Fee Transmittal (2 pgs.).

The Electronic Patent Application Fee Transmittal states the following fees are being submitted by credit card: $270 Search fee, $110 Examination fee, $165 Filing fee, $52 for 2 excess claims over twenty, and $555 extension of time fee. However, the record fails to indicate the Office received any of these fees in this application.

Since a payment for a three-month extension of time was not submitted on January 18, 2010, the application became abandoned on Tuesday, October 20, 2009.

The Office mailed a Notice of Abandonment on January 26, 2010.

Application No. 12/711,920 was filed February 24, 2010, and is a continuation of the instant application.

The instant petition was filed March 1, 2010.

The instant petition seeks to revive the application for purposes of continuity with Application No. 12/711,920.

Discussion

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply in the form of a continuation application. Petitioner has submitted the petition fee of $810. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of Application No. 12/012,419.

Petitioner submitted payment of $555 for a three-month extension of time. Payment for an extension of time is unnecessary when reviving an application. *See* MPEP 711.03(c)(II)(A). Therefore, the $555 payment has been credited back to petitioner's credit card.

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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ANDREW D. O'BRIEN
701 BELLEVUE
P.O. BOX 818
CAPE GIRARDEAU MO 63701

MAILED

APR 2 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Edwin J. Masters	:	DECISION ON PETITION
Application No. 12/012,429	:	TO WITHDRAW
Filed: January 31, 2008	:	FROM RECORD
Title: Holder For Specimen Cup	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 12, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Andrew D. O'Brien does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Andrew D. O'Brien not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed November 16, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Andrew D. O'Brien
2555 Grand Boulevard
Kansas City, MO 64108

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JAN 29 2010

OFFICE OF PETITIONS

JOSEPH E. FUNK
82 CHASE RD
LONDONDERRY NH 03053

In re Application of	:	
Anthony HATCH	:	
Application No. 12/012,436	:	DECISION ON PETITION
Filed: February 4, 2008	:	
Attorney Docket No. HATCH 1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before August 19, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 19, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The 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
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OFFICE OF PETITIONS

TED M. ANTHONY
P.O. BOX 3408
LAFAYETTE LA 70502

In re Application of :
Ernest J. CASE :
Application No. 12/012,455 : DECISION ON PETITION
Filed: February 01, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 01, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Ernest Case, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3734 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ESTEBAN N. SAGUCIO
P. O. BOX 514
KILAUEA, KAUAI HI 96754

COPY MAILED

MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Esteban Nacapuy Sagucio :
Application No. 12/012,471 : DECISION ON PETITION
Filed: February 4, 2008 : 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 February 4, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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LARRY A. SCHEMMEL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 1850
JACKSON, MS 39215-1850

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JAN 26 2010

In re Application of :
Wayne H. PHILLEY, et *al.* :
Application No. 12/012,518 : DECISION GRANTING PETITION
Filed: February 1, 2008 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **06-0119-205** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 3, 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) 272-723.

This application is being referred to Technology Center AU 1661 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.*

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VALENTI, HANLEY & ROBINSON, PLLC
ONE RIVERFRONT PLAZA
401 W. MAIN STREET
LOUISVILLE KY 40202

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Kathie Knapp	:	DECISION ON PETITION TO
Application Number: 12/012581	:	WITHDRAW HOLDING OF
Filing Date: 02/04/2008	:	ABANDONMENT
Attorney Docket Number:	:	
113027.000017	:	

This is a decision on the petition filed on January 23, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on April 29, 2008, for failure to timely and properly reply to the Notice to File Corrected Application Papers mailed on February 28, 2008, which set a two (2) month shortened period for reply. On September 8, 2008 (certificate of mailing date August 28, 2008), a proposed reply was filed, but the Office was unable to charge the required extensions of time to the deposit account provided. On November 17, 2008, Notice of Abandonment was mailed.

Petitioner asserts that a timely and proper response was filed.

Specifically, petitioner's counsel asserts:

> Pursuant to Rule 1.8(b) the undersigned, by signature appearing below, states and attests that he personally deposited the attached letter dated 8/28/2008 with the US Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Missing Parts as indicated on the face of the attached copy of such letter. By way of explanation, after

filing this application the undersigned left the Greenbaum firm that was, and apparently remains, of record in this case and joined the Valenti law firm. Undersigned's former assistant at the Greenbaum firm had had communications with Roxanne Rawl in the Application Assistance Unit concerning the notice of correction and discussed that with the exception of Figures 2 and 3, the objected to drawings were screen shots unable to be enhanced or altered. It was my belief that the outcome of the conversation was that a Corrected Notice to Correct Application Papers would be issued by the Office. After leaving Greenbaum, and being concerned that no Corrected Notice had or would issue, I filed the attached letter with explanation and with authorization to charge the Valenti firm deposit account.

The undersigned had telephonic communications on 9/29/08 with Joshua Chase, Application Assistance Unit, who indicated that while he could not discuss the case substantively since I was not of record, he could tell me that the office had received my letter of 8/28/08. He indicated that contractors were probably working on processing the document for inclusion in the file. He indicated that I could expect to receive a filing receipt in the near future and to call back if I did not receive one.

In a follow-up conversation with Son Lam on 11/19/08, I was informed that the PTO did receive my letter and response, however the fee was not processed and he indicated that the office would have likely contacted the Greenbaum firm since that firm was of record in this case. I am uncertain why the fee was not processed, but have included herewith an authorization to charge undersigned's deposit account the amount of any fee(s) necessary for withdrawing the holding of abandonment or to otherwise bring the application in compliance with the rules and requirements. Mr. Lam indicated that I should attempt to resolve this within two months. I made subsequent inquiries but was informed that since I was not of record I was not allowed to receive information about the status of the case. I was informed that the attached executed Revocation and New Power of Attorney SB82 document and the executed Statement under 37 CFR 3.73(b) document had not been included in the file in this case.

At the outset, it is noted that while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to do so. See in re Colombo, 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994). Simply put, applicant, not the Office, is ultimately responsible for the prosecution of its application. Further, applicant did not file its reply until September 8, 2008, which was less than one (1) month before the end of the extendable period for reply. This left little time for the Office to review applicant's submission and advise applicant of any deficiencies prior to the expiration of the extendable period for reply to the Notice to File Correct Application Papers mailed on February 28, 2008. An applicant may delay action until the end of the time period for reply. In doing so, however, the applicant must assume the risk attendant to such delay. Ex parte Warren, 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

It is further noted that a revocation and power of attorney was not filed until January 23, 2009. To the extent that such power of attorney was necessary in order that counsel's deposit account may have been charged, the failure to earlier file the revocation and power of attorney is due to an error on the part of applicant or applicant's representative. In this regard, it is the obligation of the applicant, or applicant's representative, to ensure that the deposit account information is properly updated and complete, as of the date that any extensions of time are due, such that the Office may charge counsel's deposit account for any required fees.

The failure to timely provide such information is an avoidable mistake. Withdrawal of the holding of abandonment is not warranted when applicant or applicant's representative makes an avoidable mistake.

Likewise, with regards to petitioner's contention that, based on an oral conversation with an USPTO employee, a Corrected Notice to File Corrected Application Papers should have been filed, requiring correction only of Figures 2 and 3, petitioner's argument is not well taken.

Further to this point, a review of the record reveals that the objections to Figures 4 and 5 have not been resolved. While applicants may have been informed that the drawing Figures 4 and 5 were acceptable, such information would have been incorrect. In this regard, 37 CFR 1.2 states that 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.

Accordingly, it was applicant, or applicant's representative's responsibility to ensure that a proper and complete response to the Notice to File Corrected Application Papers was timely filed.

Accordingly, the application was properly held abandoned for failure to timely submit a proper reply to the Notice to File Corrected Application Papers mailed on February 28, 2008.

Petitioner may wish to consider filing a petition to revive the application under 37 CFR 1.137(b). Any petition must be accompanied by a proper and complete reply to the Notice to File Corrected Application Papers mailed on February 28, 2008.

Receipt is acknowledged of the revocation and power of attorney filed on January 23, 2009. Notice of acceptance will be mailed under separate cover.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

[1] 37 CFR 1.181(f).

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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Valenti, Hanley & Robinson, PLLC
One Riverfront Plaza
401 W. Main Street
Louisville KY 40202

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of :
Kathie Knapp :
Application No. 12/012,581 : ON PETITION
Filed: February 4, 2008 :
Attorney Docket No. 113027.000017 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed February 28, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 2008. The Notice of Abandonment was mailed November 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 replacement drawings; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR

1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to the Office of Patent Application Processing for further processing.

Terri Williams
Petitions Examiner
Office of Petitions

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KIRSCHSTEIN OTTINGER ISRAEL AND SCHIFFMILLER PC
489 FIFTH AVE
NEW YORK, NY 10017

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FEB 25 2008

OFFICE OF PETITIONS

In re Application of :
KOHNER, et al. :
Application No. 12/012,584 : DECISION ON PETITION
Filed: February 4, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **KOHNER** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 4, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of inventor Frank Kohner's passport and driver's license, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Patent Application Processing at 571-272-4000.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

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ALIX, YALE & RISTAS, LLP
750 MAIN STREET, SUITE 1400
HARTFORD, CT 06103

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FEB 25 2008

OFFICE OF PETITIONS

In re Application of :
FROMSON, Howard A. :
Application No. 12/012,594 : DECISION ON PETITION
Filed: February 4, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **FRO/218/US** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 4, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor Howard A. Fromson, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of 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 Petitions0

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JUN 07 2010

OFFICE OF PETITIONS

Peter Douglas Jack
122 - 7198 Vantage Way
Delta, B.C. V4G 1K7 CA CANADA

In re Application of
Jack, et al.
Application No. 12/012,600
Filed: February 5, 2008
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.1.137(b) filed on April 1, 2010, to revive the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed November 30, 2009, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 1, 2010. A Notice of Abandonment was mailed on March 15, 2010.

The instant petition was filed on April 1, 2010.

The petition will not be treated on its merits at this juncture because it is not signed by all of the necessary parties. Further to this point, 37 CFR 1.33(b) provides, in pertinent part that:

> b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) **>A 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.

The petition, as filed on April 1, 2010, is defective because it is only signed by inventor Jack, but there is an additional joint inventor listed on the application. The renewed petition must be signed by

either all the named joint inventors, an attorney of record in the application, or a representative of the assignee that is empowered by 37 CFR 3.73(b).

NO ADDITIONAL PETITION FEES ARE REQUIRED.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED Paper No.

JAN 19 2010

OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of :
Salesky et al. :
Application No. 12/012,642 : DECISION ON PETITION UNDER
Filing Date: February 4, 2008 : 37 C.F.R. § 1.10(D)
Attorney Docket No. PA4562US :
Title: PROVIDING CONFERENCE :
DATA IN A NETWORK :
COMMUNICATIONS SYSTEM BASED ON :
CLIENT OR SERVER INFORMATION :
EXAMINED DURING A CONFERENCE :

This is a decision on the petition filed on November 13, 2009, requesting the according of a filing date of February 4, 2008 to application number 12/012,642. The submission is being treated as a petition pursuant to 37 C.F.R. § 1.10(d)

The application was deposited on February 5, 2008. On February 28, 2008, the Office mailed a filing receipt, indicating that application number 12/012,642 had been accorded a filing date of February 5, 2008.

With the present petition, Petitioner has included a copy of Express Mail label number EM007147093US.[1]

Petitioner has alleged that the application was deposited on February 4, 2008, and the Patent Office has incorrectly assigned a filing date of February 5, 2008 to the present application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of February 5, 2008, along with a USPS date-stamp which reads "FEB - 4 2008." Petitioner

1 It is noted that the Utility Patent Application Transmittal sheet contains this same Express Mail label number.

has asserted that the former was incorrectly entered, and the field should indicate that the USPS received the package on February 4, 2008.

A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was inconclusive, in that it stated that this information is stored offline, and a request to restore the same was not successful. However, Petitioner has enclosed a print-out of this same website, and this print-out shows an entry of "ACCEPTANCE, February 04, 2008, 4:39 pm, PALO ALTO, CA 94303." Thus, it is clear that the USPS had possession of this package on this date.

Although the application received a filing date of February 5, 2008, the evidence is convincing that the application papers were filed on February 4, 2008 pursuant to 37 C.F.R. § 1.10(a)(2), and the Patent Office assigned the incorrect date to the application based on the incorrect entry that appears on the Express Mail label. Therefore, the application was entitled to a filing date of February 4, 2008, pursuant to 37 C.F.R. § 1.10(a)(1).

Accordingly, the petition is **GRANTED**.

The Office of Patent Application Processing (OPAP) will be advised of this decision. Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to February 4, 2008**, and;
- **for issuance of a corrected filing receipt**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Paul A. Vrame	: DECISION ON REQUEST FOR
Patent Number	: 7631902	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/012,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2008	: 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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LAW OFFICE OF ERIC G. MASAMORI
444 KIT FOX COURT
WALNUT CREEK CA 94598

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of :

SUVANPROKORN, Pichit et al. :
Application No. 12/012,647 : DECISION ON PETITION
Filed: February 05, 2008 : TO WITHDRAW
Attorney Docket No. **112-011** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 2009.

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 Eric Masamori, the sole attorney of record. Eric Masamori has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Pichit Suvanprokorn 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: **PICHIT SUVANPRAKOM**
884-886 PLOENCHIT ROAD
LUMPINEE PATUMWAN
BANGKOK 10330
THAILAND

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VOLVO TECHNOLOGY OF AMERICA, CORPORATE PATENTS
7825 NATIONAL SERVICE ROAD
MAIL STOP, AP1/3-41
GREENSBORO NC 27409

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of :
Niemczyk et al. :
Application No. 12/012,680 : DECISION ON PETITION
Filed: February 5, 2008 :
Attorney Docket No. P22112US :

This is a decision on the petition filed August 10, 2009 to "To Petition To Correct Filing Receipt: This petition is being under to 37 CFR 1.181(no fee).

The petition is **GRANTED**.

Petitioner contends a corrected filing receipt is required because one of the four inventors (inventor Niemczyk) was not included on the filing receipt. Petitioner contends there were three pages of declaration submitted on February 5, 2008 (the first executed declaration), which included inventor Niemczyk. In support of petitioner's contention, petitioner has provided a copy of the three pages of declaration and a stamped postcard receipt.

A review of the record confirms that the Office is not in receipt of three pages of the signed declaration, which includes the signature page of Niemczyk. A review of the postcard receipt establishes that at least three pages of declaration were submitted on February 5, 2008. 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.

As such inventor Niemczyk has been added to Office records.

This application is being referred to the of Art Unit 3663 for processing in the normal course of business.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/012,680	02/05/2008	3663	1030	P22112US	7	2

CONFIRMATION NO. 3796

CORRECTED FILING RECEIPT

67907
VOLVO TECHNOLOGY OF AMERICA, CORPORATE PATENTS
7825 NATIONAL SERVICE ROAD
MAIL STOP, AP1/3-41
GREENSBORO, NC 27409

OC000000039235132

Date Mailed: 12/15/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert Thomas Niemczyk, Greensboro, NC;
Jon Michael Quigley, Lexington, NC;
Michael Dean Blackard, Jamestown, NC;
Michael Lee McKinley, Kemersville, NC;

Assignment For Published Patent Application

Volvo Group North America, Inc., Greensboro, NC

Power of Attorney: The patent practitioners associated with Customer Number 67907

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/26/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/012,680**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for operator interface with a diesel particulate filter regeneration system

Preliminary Class

701

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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas H. Lee, et al.	:	DECISION ON PETITION
Application No. 12/012,714	:	TO WITHDRAW
Filed: February 4, 2008	:	FROM RECORD
Attorney Docket No. 13111-7	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed January 19, 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: **MICROCHIP TECHNOLOGY INC.**
LEGAL DEPARTMENT 2355 WEST CHANDLER BLVD.
CHANDLER, ARIZONA 85224

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RAYMOND J. BOROWSKI
4663 NEW CASTLE ROAD
NEW WILMINGTON, PA 16142

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Tai Wai Luks :
Application No. 12/012,740 :
Filed: February 5, 2008 :
Attorney Docket No. :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 5, 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 Raymond J. Borowski. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2618 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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DTS, INC.
5171 CLARETON DRIVE
AGOURA HILLS, CA 91301

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FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Ian GODIN	:	
Application No. 12/012,741	:	DECISION ON PETITION
Filed: February 5, 2008	:	TO WITHDRAW
Attorney Docket No. 262-23-613	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed December 11, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that William L. Johnson does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DTS DIGITAL IMAGES
2777 N. ONTARIO STREET
BURBANK, CA 91504

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OFFICE OF PETITIONS

Greenberg Traurig, LLP (LA)
2450 Colorado Avenue, Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

In re Application of :
Eric Arno Vigen :
Application No. 12/012,753 : DECISION ON PETITION
Filed: February 5, 2008 : TO WITHDRAW
Attorney Docket No. 076978.010300 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Bradley D. Blanche on behalf of all attorneys/agents associated with customer number 33717. All attorneys/agents associated with customer number 33717 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Eric Arno Vigen
4845 Rubio Avenue
Encino, CA 91436-1118

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/012,753	02/05/2008	Eric Arno Vigen	076978.010300

CONFIRMATION NO. 3857

POWER OF ATTORNEY NOTICE

33717
GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

Date Mailed: 08/31/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/17/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of :
Alessi :
Application No. 12/012,763 : DECISION
Filed/Deposited: 5 February, 2008 :
Attorney Docket No. ERP05.001C1DV1 :

This is a decision on the petition filed on 5 November, 2009, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] *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 C.F.R. §1.137(b) was unintentional, Petitioner ***must*** *notify the Office.*

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

[1] See 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers mailed on 2 February, 2009, with reply due absent an extension of time on or before 2 April, 2009.

The application went abandoned by operation of law after midnight 2 April, 2009.

The Office mailed the Notice of Abandonment on 22 October, 2009.

On 5 November, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a reply in the form of what are averred to be corrected application papers and a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS 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).[3] 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.[4]))

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the 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.

---

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] 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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of
OSANAI, SATOSHI
Application No. 12/012,764
Filed: February 02, 2008
Attorney Docket No. 4041P-000102

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed December 01, 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/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Nelson Nicola Saba	:	
Application No. 12/012,796	:	DECISION GRANTING
Filed: February 4, 2008	:	PETITION
Attorney Docket No. PA4094US	:	

This is a decision on the paper entitled: "REQUEST FOR CORRECTED FILING RECEIPT", filed August 18, 2008, which is being properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of February 4, 2008, rather than the presently accorded date of February 5, 2008.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on February 4, 2008 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EM007147147US bears a handwritten "date-in" of February 5, 2008; it also includes a USPS receipt date stamp of. February 4, 2008. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is February 4, 2008. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on February 4, 2008, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of February 4, 2008, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to February 4, 2008 and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to the underlined at (571) 272-3208. Telephone inquiries related to the (OPAP) processing should be directed to their hotline at (571) 272-4100.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Nelson Nicola Saba	:	
Application No. 12/012,797	:	DECISION GRANTING
Filed: February 4, 2008	:	PETITION
Attorney Docket No. PA4093US	:	

This is a decision on the petition filed November 10, 2008, requesting that the above-identified application be accorded a filing date of February 4, 2008, rather than the presently accorded date of February 5, 2008. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on February 4, 2008, pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EM007147133US bears a handwritten "date-in" of February 5, 2008, it also includes a USPS receipt date stamp of February 4, 2008. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is February 4, 2008. In further support, petitioner has provided an USPS Track and Confirm record showing the package in question was accepted at 4:38pm on February 4, 2008. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on February 4, 2008, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of February 4, 2008, and has been so accorded.

In view of the above, the petition is GRANTED.

The application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to **February 4, 2008** and issuance of a corrected filing receipt.

Telephone inquiries relating to 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 (571) 272-4100.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BRUCE L. ADAMS, ESQ
ADAMS & WILKS
SUITE 1231
17 BATTERY PLACE
NEW YORK, NY 10004

Mail Date: 05/04/2010

Applicant	: Mamoru Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7614784	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 12/012,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **77** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/012,894	02/06/2008	Katsumi Suzuki	5577-33	4961

27799 7590 05/27/2010

COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER	
MAUNG, NAY AUNG	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
05/27/2010	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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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In re Application of	:	
SUZUKI, KATSUMI	:	DECISION ON REQUEST TO
Application No. 12/012,894	:	PARTICIPATE IN PATENT
Filed: February 7, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. **5577-33**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 19, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 20 2008

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of	:	
Saitoh Izumi et. al.	:	DECISION ON REQUEST TO
Application No. 12/012,932	:	PARTICIPATE IN PATENT
Filed: February 5, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 003824-0006-103	:	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 March 6, 2008, 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 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 fails to comply with the requirement because:

The petition does not include a copy of the allowable/patentable claim(s) and office action(s) from the JPO application (in Japanese). The petition includes only an English translation of the allowable claims.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Ram R. Shukla at 571-272-8300.

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
401 W FALLBROOK AVE STE 204
FRESNO CA 93711-5835

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Chang Hun Han :
Application No. 12/012,937 : DECISION ON PETITION
Filed: February 5, 2008 : PURSUANT TO
Attorney Docket No. : OPP-GZ-2004-0011-US-D1 : 37 C.F.R. § 1.182
Title: CMOS IMAGE SENSOR AND METHOD FOR FABRICATING THE SAME :

This is a decision on the "PETITION TO WITHDRAW NOTICE OF INCOMPLETE REPLY AND NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION, filed on December 29, 2008. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.182.

This petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the first Notice of Omitted Items, mailed March 4, 2008, which set a shortened statutory period for reply of two months. A response was filed on May 5, 2008[1] containing, *inter alia*, a preliminary amendment directing the entry of concurrently submitted Figures 7C - 7F. A second Notice of Omitted Items was mailed on August 12, 2008, and a

1 It is noted that May 4, 2008 fell on a Sunday.

response was received on October 14, 2008.[2] A third Notice of Omitted Items was mailed on October 28, 2008, and this petition was filed on December 29, 2008.[3]

ANALYSIS

With this petition, Petitioner has alleged that his response to the first Notice of Omitted Items fully complied with the notice.

37 C.F.R. § 1.57(a)(1) sets forth, *in toto*:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
> (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

It is noted that this application is a divisional of prior-filed application number 10/982,643. With the response to the first Notice of Omitted Items, pursuant to 37 C.F.R. § 1.57(a)(1) (referred to in option (B)(2) of the notice), the application was amended to include the inadvertently omitted drawings (Figures 7C - 7F) within the time period set by the Office, and Petitioner asserted that these figures "can be found in the prior-filed U.S. Application Number 10/982,643." A copy of the

2 It is noted that October 12, 2008 fell on a Sunday and October 13, 2008 fell on a Federal Holiday.
3 It is noted that December 28, 2008 fell on a Sunday.

prior-filed application was not required, as the prior-filed application is an application filed under 35 U.S.C. 111, and an English language translation of the prior-filed application was not required.

As such, the response of May 5, 2008 fully complied with the first Notice of Omitted Items. **The second and third Notices of Omitted Items were mailed in error, and are hereby WITHDRAWN.**

As this petition was necessitated by erroneous mailings by the Office, the fee that is associated with the filing of this petition pursuant to Rule 1.182 will not be assessed.

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.

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.[4]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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RAYMOND R. FERRERA
ADAMS AND REESE LLP
SUITE 4400
1221 MCKINNEY STREET
HOUSTON, TX 77010

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of
Karim Alhussiny
Application No. 12/012,958
Filed: February 6, 2008
Attorney Docket No. 15932-3

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 8, 2009.

The request is **APPROVED**.

A review of the file record indicates that Raymond R. Ferrera: (1) does not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Raymond R. Ferrera has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is accepted as the new correspondence address is that of the first named inventor, 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: KARIM ALHUSSINY
2002 NORFOLK ST. SUITE B
HOUSTON, TX 77098

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.
12/012,976	02/06/2008	Takehiko Isaka	08067/LH	5012

7590 05/18/2010

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
CHIN, VIVIAN C	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
05/18/2010	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: 05/18/2010 NFARMER
-510.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/012,983	02/04/2008	Toshihiro Hosoi	4041J-001403	5014

27572 7590 01/13/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER	
TSANG, FAN S	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
01/13/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of	:	
HOSOI, TOSHIHIRO	:	DECISION ON REQUEST TO
Application No. 12/012,983	:	PARTICIPATE IN PATENT
Filed: February 4, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. **4041J-001403**	:	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 November 17, 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 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

82

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of :
G. V. Kumar et al. :
Application No. 12/013,000 : DECISION REFUSING STATUS
Filed: February 6, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No. **IUS-001XX** :

This decision is in response to the petition filed September 25, 2008 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on February 6, 2008, without an oath or declaration. Accordingly, on February 28, 2008, a Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a declaration executed by joint inventor G. V. Kumar in his own stead and on behalf of the non-signing joint inventor S. Mohan Kumar and a five month extension of time was filed. Petitioner claims that joint inventor S. Mohan Kumar refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor only that the Declaration and Assignment were sent by email to joint inventor S. Mohan Kumar.

Petitioners must show proof that a copy of the application (specification including claims, drawings, if any) and the Declaration were sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that if after having received the complete application, the non-signing inventors refuse to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Furthermore, since petitioners have a last known address for the non-signing inventor, petitioners might be better served by sending the application papers directly to the non-signing inventor at that address versus by email since it hasn't been established that joint inventor S. Mohan Kumar actually received even the declaration and assignment, sent by email. In the absence of an express statement from a non-signing inventor that they have received, opened and read a document, unlike a printed page in the language of the recipient there is no basis to presume that an Emailed document was in a form comprehended.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the deficiencies have been cured.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

JAN 16 2009

In re Application of :
G. V. Kumar et al. :
Application No. 12/013,000 : DECISION ACCORDING STATUS
Filed: February 6, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No. **IUS-001XX** :

This decision is in response to the request for reconsideration filed under 37 CFR 1.47(a) on October 28, 2008.

The petition is **GRANTED**.

The above-identified application was filed on February 6, 2008, without an oath or declaration. Accordingly, on February 28, 2008, a Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. In response, a petition filed September 25, 2008 with a declaration executed by joint inventor G. V. Kumar in his own stead and on behalf of the non-signing joint inventor S. Mohan Kumar and a five month extension of time was filed. Petitioner claimed that joint inventor S. Mohan Kumar refused to sign the declaration. The petition was dismissed in a decision mailed October 21, 2008 because the proof presented did not support a claim that a copy of the complete application had been sent to the non-signing inventor. The decision set a two month period for reply.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

In response to the decision dismissing the petition filed September 25, 2008, the instant petition shows that a copy of the complete application was mailed to the non-signing inventors last known home address and delivered to his place of employment, but that S. Mohan Kumar has not returned an executed copy of the oath or declaration and thus refuses to cooperate with the filing of the instant application.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule

1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
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

GUNN & LEE, P.C.
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO TX 78205

COPY MAILED

NOV 25 2008

OFFICE OF PETITIONS

In re Application of :
Jeff Wright et al. :
Application No. 12/013,037 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. P-8899.3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 29, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 29, 2008.

A 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 lacks (1) in that the declaration filed concurrently with the instant petition is not acceptable. In the section of the declaration pertaining to "duty to disclose," "examination" needs to be replaced with --patentability-- and "1.56(a)" needs to be replaced with -- 1.56 --.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): P-8699.3

First named inventor: Jeff Wright

Application No.: 12/013,037 Art Unit: 3723

Filed: 01/11/2008 Examiner: Unassigned

Title: Multipurpose Tool

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☑ Small entity-fee $ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Notice to File Missing Parts + $65 surcharge (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	10/28/2008 Date
Michael D. Paul Typed or printed name	59,896 Registration Number, if applicable
Gunn & Lee, P.C. Address	(210) 886-9500 Telephone Number
700 N. St. Mary's St., Suite 1500, San Antonio, TX 78205 Address	

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: (1) Combined Declaration and Power of Attorney; (2) Notice of Abandonment

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted ~~by facsimile~~ electronically on the date shown below to the United States Patent and Trademark Office ~~at (571) 273-8300~~.

10/28/2008 Date	Signature
	Michael D. Paul Typed or printed name of person signing certificate

12/013037 Examiner: , GAU: 3723
Inventor: WRIGHT , JEFF, et al Classification: 007/128.000
Status: 160 - ABANDONED -- INCOMPLETE APPLICATION (PRE-EXAMINATION)
Title: MULTIPURPOSE TOOL
Start Date: End Date:

bib_fee report (5 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/29/2008	2455	4	2051	$65.00	10/28/2008	CC
10/29/2008	2456	4	2453	$810.00	10/28/2008	CC
01/14/2008	1901	4	4011	$75.00	01/11/2008	CC
01/14/2008	1902	4	2111	$255.00	01/11/2008	CC
01/14/2008	1903	4	2311	$105.00	01/11/2008	CC

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

GUNN & LEE, P.C.
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO TX 78205

COPY MAILED

MAR 1 2 2009

OFFICE OF PETITIONS

In re Application of :
Jeff Wright et al. :
Application No. 12/013,037 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. P-8899.3 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 29, 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 30, 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).

In regard to item (1), the Oath or Declaration filed concurrently with the instant petition lacks the signature of the second inventor "Jeff Waters". Therefore, petitioner must submit an Oath or Declaration with the second inventor signature before the instant petition can be revived.

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
www.uspto.gov

GUNN & LEE, P.C.
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO TX 78205

MAILED

APR 09 2009

OFFICE OF PETITIONS

In re Application of :
Jeff Wright et al. :
Application No. 12/013,037 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. P-8899.3 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 29, 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 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath or declaration, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. If the Power of Attorney is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUN 0 9 2008

Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re Application of :
Christopher R. Tilton :
Application No. 12/013,077 : DECISION ON PETITION
Filed: January 11, 2008 : TO WITHDRAW
Attorney Docket No. EFRST-004A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 18, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark B. Garred on behalf of all attorneys/agents associated with customer number 07663. All attorneys/agents associated with customer number 07663 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Earth First Industries, Inc.
32029 Point Place
Laguna Beach, CA 92651

cc: Stephen M. McNamara
5001 Birch Street
Newport Beach, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/013,077	01/11/2008	CHRISTOPHER R. TILTON	EFRST-004A

CONFIRMATION NO. 7885

POWER OF ATTORNEY NOTICE

7663
STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

Date Mailed: 06/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/18/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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JAN 08 2009

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

Enclosure: PETITION FOR ACCESS – SPECIAL CIRCUMSTANCES (37 CFR § 1.14(i))

Access Petition for *in re* application	:	
Christopher R. Tilton	:	THREE
Application No. 12/013,077	:	WEEK
Filed: January 11, 2008	:	LETTER
Attorney Docket No. ERTHF-79869	:	

Title: GROUND CALCIUM CARBONATE COMPOSITES FOR STORAGE ARTICLES AND METHOD OF MAKING SAME

A petition for access under 37 CFR 1.14(h) [now (i)] was filed by Mr. Philip M. Nelson for One Source Industries, for access to the above-identified application on October 17, 2008, a duplicate copy of the petition is attached.[1]

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 USC § 122. See Manual of Patent Examination Procedure (MPEP), Section 103. The use of such application to interfere with the business of others may be such special circumstances. *Ex parte Bonnie-B Co., Inc.*, 1923 C.D. 42; *In re Application for Trimless Cabinets*, 128 USPQ 95 (Comm'r Pats. 1960); and *In re Crossman, Kenrick and LeMieux*, 187 USPQ 367 (PTO Solicitor 1975).

Petitioner states that access should be granted to the above-identified application because a supplier for petitioner has received a letter from the assignee of the '077 application, Earth First Industries Incorporated. The letter states, "We represent Earth First Industries Incorporated in intellectual property matters. This will confirm that the following Earth First U.S. Patent Applications are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force." The letter goes on to list several U.S. Patent Applications and an International Application.

Applicant is hereby given THREE WEEKS from the mail date of this letter to file a response. If applicant fails to respond within THREE WEEKS, petitioner may be allowed access to the file.

[1] Petitioner states that a copy of the petition for access was served upon Mr. Thomas A. Runk, Fulwider Patton LLP, Howard Hughes Center, 6060 Center Drive, Tenth Floor, Los Angeles, CA 90045

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

By FAX: 571-273-0100
Attn: Office of Patent Legal Administration/Joseph F. Weiss, Jr.

If applicant chooses to file by mail, the submission of an informal courtesy copy by facsimile is requested in order to expedite a decision on the petition.

Inquiries relating to this matter may be directed to the undersigned, at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

OCT 17 2008
PATENT & TRADEMARK OFFICE

SOURCE1.044PIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petitioner	:	One Source Industries
Appl. No.	:	12/013,077
Filed	:	01/11/2008
For	:	GROUND CALCIUM CARBONATE COMPOSITES FOR STORAGE ARTICLES AND METHOD OF MAKING SAME
Examiner	:	Unknown
Group Art Unit	:	Unknown

SECOND RESUBMISSION OF PETITION FOR ACCESS TO UNPUBLISHED PATENT APPLICATIONS PURSUANT TO 37 C.F.R. § 1.14(h)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On October 16, 2008 the undersigned attorney telephoned the USPTO petitions branch for a status update regarding the petition for access originally filed on August 13, 2008 and re-submitted on October 9, 2008. As was the case after the first filing, the clerk was unable to find the resubmitted petition in the USPTO system and suggested that the petition should be submitted yet a third time. This time, four copies of the petition are being submitted, one for each of the known application numbers referred to herein.

Accordingly, submitted herewith is a copy of the original petition and the re-submission, including receipts showing that both facsimile transmissions were received by the USPTO central fax, one on August 13, 2008, and the other on October 9, 2008.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/16/'08

By: Philip Nelson
Philip M. Nelson
Registration No. 62,676
(949) 760-0404

6094288_4 : 101608

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Tel 949-760-0404
Fax 949-760-9502
www.kmob.com

USPTO FACSIMILE TRANSMITTAL SHEET

Docket No.: SOURCE1.044PIP

CUSTOMER NO. 20995

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

October 9, 2008

Philip Nelson

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Resubmission of previously filed Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(h)

(X) Total pages in transmission: 9

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

Philip Nelson

Philip M. Nelson
Registration No. 62,676
Attorney of Record
Customer No. 20,995
(949) 760-0404

6064988:rms
100908

SOURCE1.044PIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petitioner	:	One Source Industries
Appl. Nos.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see below)
Examiner	:	Unknown
Group Art Unit	:	Unknown

RESUBMISSION OF
PETITION FOR ACCESS TO UNPUBLISHED PATENT APPLICATIONS
PURSUANT TO 37 C.F.R. § 1.14(h)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This morning the undersigned attorney telephoned the USPTO petitions branch for a status update regarding the petition for access filed on August 13, 2008. The clerk was unable to find the petition in the USPTO system and suggested that the petition should be resubmitted.

Accordingly, electronically submitted herewith is a copy of the petition, along with a receipt showing that the facsimile transmission of the petition was received by the USPTO on August 13, 2008.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9 Oct. 2008

By: Philip Nelson
Philip M. Nelson
Registration No. 62,676
(949) 760-0404

6056522_1 : 100808

SOURCE1.044PIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petitioner	:	One Source Industries
Appl. Nos.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see below)
Examiner	:	Unknown
Group Art Unit	:	Unknown

PETITION FOR ACCESS TO UNPUBLISHED PATENT APPLICATIONS PURSANT TO 37 C.F.R. § 1.14(h)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 35 U.S.C. § 122(a), the Director of the United States Patent and Trademark Office can grant a petitioner access to an unpublished patent application "in such special circumstances as may be determined by the Director." Special Circumstances can be found "where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers." M.P.E.P. § 103(V); 37 C.F.R. § 1.14(h); *see In re Crossman*, 187 U.S.P.Q. 367 (1975); *In re Trimless Cabinets*, 128 U.S.P.Q. 95 (1960); *Ex parte Bonnie-B Co.*, 1923 C.D. 42 (1922); *see also Gardiner v. Gendel*, 727 F. Supp. 799 (E.D.N.Y. 1989).

Filed herewith as Exhibit 1 is a letter sent on behalf of Earth First Industries, Inc. The letter states: "This will confirm that the following Earth First U.S. Patent Applications are pending at the U.S. Patent and Trademark Office ("USPTO") **and are in full force**." (Exhibit 1, p. 1. Emphasis added.) The letter then lists the following unpublished patent applications:

Appl. Nos. : 60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed : 08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007

Application No.	Atty. Docket No.	Title	Filing Date
60/856,690	79868	Ground Calcium Carbonates Packaging	08/18/2007
11/945,164	79866	Reverse Blister Ground Calcium Carbonates Packaging and Method of Making Same	11/26/2007
11/945,166	79867	Pliable Ground Calcium Carbonates Storage Articles and Method of Making Same	11/26/2007
12/013,077	79869	Ground Calcium Carbonate Composites For Storage Articles and Method of Making Same	01/11/2008
Unknown	79870	Pliable Ground Calcium Carbonates Storage Articles and Method of Making Same	12/06/2007

The letter was sent to a supplier for the petitioner, thereby interfering with petitioner's business. Accordingly, pursuant to 35 U.S.C. § 122(a), 37 C.F.R. § 1.14(h), and M.P.E.P. § 103(V), Petitioner respectfully requests access to the above-listed patent applications.

Petition Fee

The petition fee of $200.00 set forth in 37 C.F.R. § 1.17(g) is submitted herewith.

Certificate of Service

Because the above listed applications have not published, we have been unable to confirm the identities of the current attorneys of record in the USPTO for these applications. However, I hereby certify that a complete copy of this paper, including the accompanying exhibit, is being served via First-Class U.S. mail upon:

Thomas A. Runk	FULWIDER PATTON, LLP Howard Hughes Center 6060 Center Drive, Tenth Floor Los Angeles, CA 90045

Conclusion

Petitioner believes that all of the requirements for access have been satisfied under 35 U.S.C. § 122(a) and 37 C.F.R. § 1.14(h). Accordingly, Petitioner requests access to the above-identified applications.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 13 Aug. 2008

By: Philip Nelson
Philip M. Nelson
Registration No. 62,676
(949) 76-00404

5776503

OIPE IAP97
OCT 17 2008
PATENT & TRADEMARK OFFICE

FULWIDER • PATTON LLP

INTELLECTUAL PROPERTY LAW

Gilbert G. Kovelman
Vera Schonley
James W. Peal
John S. Nagy
Craig B. Bailey
Stephen J. Strauss
Thomas H. Majcher
Thomas A. Rush
Michael S. Elkind
Gary M. Anderson
I. Morley Drucker
David G. Parkhurst
John K. Fitzgerald
Paul Y. Feng
Gunther O. Hanke
James Jao
Michael J. Moffatt
David J. Pitman
Jennifer L. Webber
Jessica Brookhart-Kunst

Senior Counsel
Richard A. Bardin

Of Counsel
Howard N. Sommers
Leonard D. Mersinger
Scott R. Hansen
Katherine L. McDaniel

Robert W. Fulwider
(1903-1979)

Warren L. Patton
(1917-1985)

F.A. Hecht (Ret.)

(310) 242-2720
trunk@fulpat.com

June 23, 2008

To Whom It May Concern

Re: Status of U. S. Patent Applications
Owner: Earth First Industries Incorporated
Docket No.: 79836

Dear Sir or Madam:

We represent Earth First Industries Incorporated in intellectual property matters. This will confirm that the following Earth First U.S. Patent Applications are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force.

Fulwider Docket No.	Earth First Docket No.	Application No.	Title	Filing Date	Approx. Publication Date
79868	EFRST-001	60/956,690	Ground Calcium Carbonates Packaging	Aug. 18, 2007	N/A
79866	EFRST-003A	11/945,164	Reverse Blister Ground Calcium Carbonates Packaging and Method of Making Same	Nov. 26, 2007	Feb. 19, 2009
79867	EFRST-002A	11/945,166	Pliable Ground Calcium Carbonates Storage Articles And Method Of Making Same	Nov. 26, 2007	Feb. 19, 2009
79869	EFRST-004A	12/013,077	Ground Calcium Carbonate Composites For Storage Articles And Method Of Making Same	Jan. 11, 2008	Feb. 19, 2009

Fulwider Docket No.	Earth First Docket No.	Application No.	Title	Filing Date	Approx. Publication Date
79870	EFRST-002PC	US2007/024993	Friable Ground Calcium Carbonates Storage Articles And Method Of Making Same	Dec. 6, 2007	Feb. 19, 2009

Sincerely,

FULWIDER PATTON LLP

Thomas A. Runk

TAR:tm

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
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www.knob.com

OCT 17 2008
PATENT & TRADEMARK OFFICE

USPTO FACSIMILE TRANSMITTAL SHEET

Docket No.: SOURCE1.044PIP

CUSTOMER NO. 20995

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

August 13, 2008

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(g)

FILING FEES:

FEE CALCULATION				
FEE TYPE		**FEE CODE**	**CALCULATION**	**TOTAL**
General Petition	37 CFR § 1.17(g)	1460 ($200)		$200
			TOTAL FEE DUE	$200

(X) Please charge the total fees due in the amount of $200 to Deposit Account No. 11-1410.

(X) Total pages in transmission: 6

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

Philip Nelson

Philip M. Nelson
Registration No. 62,676
Attorney of Record
Customer No. 20,995
(949) 760-0404

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RECIPIENT ADDRESS       915712738300
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ST. TIME                08/13 15:32
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USPTO FACSIMILE TRANSMITTAL SHEET

Docket No.: SOURCE1.044PIP **CUSTOMER NO. 20995**

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

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August 13, 2008

Philip M. Nelson

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(g)

FILING FEES:

FEE CALCULATION				
FEE TYPE		**FEE CODE**	**CALCULATION**	**TOTAL**
General Petition	37 CFR § 1.17(g)	1460 ($200)		$200
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(X) Please charge the total fees due in the amount of $200 to Deposit Account No. 11-1410.

(X) Total pages in transmission: 6

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in

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TIME USE	01'07
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USPTO FACSIMILE TRANSMITTAL SHEET

Page 1 of 9

Docket No.: SOURCE1.044PTP **CUSTOMER NO. 20995**

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

October 9, 2008

Philip Nelson

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Resubmission of previously filed Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(h)

(X) Total pages in transmission: 9

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

Philip Nelson

Philip M. Nelson
Registration No. 62,676
Attorney of Record
Customer No. 20,995
(949) 760-0404

6064988:rms

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

(For Applicant)

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

(For Third Party Requester)

MAILED

MAR 23 2009

OFFICE OF PETITIONS

Applicant: CHRISTOPHER R. TILTON
Appl. No.: 12/013077
Filing Date: January 11, 2008
U.S. Publication No.: US 2009/0047499 A1
Pub. Date: February 19, 2009
Title: GROUND CALCIUM CARBONATE COMPOSITES FOR STORAGE ARTICLES AND METHOD OF MAKING SAME
Attorney Docket No.: ERTHF-79869

This is in response to the "Petition for Access Under 37 CFR 1.14(h[sic i])" which was received on October 17, 2008, and applicant's "Objection to the Petition for Access" received on January 29, 2009, for the above-identified application.

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED as moot.**

DECISION

MPEP § 106 states:

> The assignee of record of the entire interest in an application may intervene in the prosecution of the application, appointing an attorney or agent of his or her own choice. See 37 CFR 3.71. Such intervention, however, does not exclude the applicant from access to the application to see that it is being prosecuted properly, unless the assignee makes specific request to that effect. Any request to prevent the inventor from obtaining access to the file should be filed as a separate paper, 37 CFR 1.4(c), and should be directed to the Office of Petitions. If the request is granted, the inventor will be informed that he or she will only be permitted to inspect the application on sufficient showing why such inspection is necessary to conserve his or her rights, *In re The Kellogg Switchboard & Supply Company,* 1906 C.D. 274 (Comm'r Pat. 1906). *Of course, after the application has published pursuant to 35 U.S.C. 122(b), the application will be available to the public and any restriction on the inventor to access his or her application previously granted will no longer be in effect.*

Therefore, because the application has already issued as U.S. Publication No.: US 2009/0047499 A1, published on February 19, 2009, the petition is moot.

CONCLUSION

1. The petition is **DISMISSED as moot.**

2. Inquiries relating to this matter may be directed to the undersigned at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

FULWIDER • PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CALIFORNIA 90045
(310) 824-5555 • (310) 824-9696 FAX

FACSIMILE TRANSMISSION

Date: January 29, 2009

		Telephone	Facsimile
To:	Commissioner for Patents Attn: Office of Patent Legal Administration /Joseph F. Weiss, Jr.	571-272-7759	571-273-0100

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From: Thomas A. Runk

Re: Filing of:
OBJECTION TO PETITION FOR ACCESS
U.S. Application No. 12/013,077
Filing Date: January 11, 2008
Title: GROUND CALCIUM CARBONATES COMPOSITES FOR STORAGE ARTICLES AND METHOD OF MAKING SAME
Inventor: Christopher R. Tilton

Client/Matter: ERTHF-79869

Number of pages (Incl. this page): 6

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☐ Original to follow ☒ Original will NOT follow

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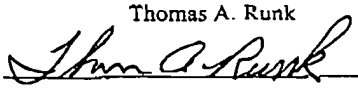
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (571) 273-0100) on January 29, 2009.

Typed or printed name of person signing this certificate

Thomas A. Runk

Signature 

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Typed or printed name of person signing this certificate

Thomas A. Runk

Signature Thomas A. Runk

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Christopher R. Tilton
Application No.	:	12/013,077
Filing Date	:	January 11, 2008
For	:	GROUND CALCIUM CARBONATES COMPOSITES FOR STORAGE ARTICLES AND METHOD OF MAKING SAME
Legal Advisor	:	Joseph F. Weiss, Jr.
Art Unit	:	1614
Confirmation No.	:	7885
Docket No.	:	ERTHF-79869
Date:	:	January 29, 2009

OBJECTION TO PETITION FOR ACCESS

Commissioner for Patents
United States Patent And Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By Facsimile: 571-273-0100

ATTN: Office of Patent Legal Administration/Joseph F. Weiss, Jr.

Dear Sir:

This is in response to the THREE WEEK LETTER dated January 8, 2009 from the Office. Applicant objects to granting the "Petition for Access to Unpublished Patent Applications" dated October 16, 2008 by One Source Industries.

In its petition, One Source Industries fails to show the existence of any "special circumstances" that would justify the Office in denying Applicant the confidentiality of its application that is provided under 35 U.S.C. § 122(a). Petitioner One Source Industries bases its allegation of "special circumstances" on a letter addressed to "To Whom It May Concern" dated June 23, 2008. The letter states that Earth First Industries Incorporated has filed patent applications with the Office and that those applications "are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force." Petitioner has taken the trouble to underline and bold the words "and are in full force" without explanation of the reason for doing so. In fact, "in full force" simply means that the application is not abandoned, that all applicable fees have been paid, that any Office Actions have been responded to, that all Office requirements have been met, and that the Office designates the application as pending. Notably, that letter contains no allegation of infringement by Petitioner or its supplier of any patent application.

MPEP § 103V. "Petition for Access" (cited by Petitioner) allows for access in "special circumstances," 37 C.F.R. § 1.14(h). However, 37 C.F.R. § 1.14(h) (2) requires:

> A showing ... that special circumstances exist which warrant petitioner being granted access to all or part of the application.

MPEP § 103V. provides that:

> Each petition should show not only why access is desired, but also why petitioner believes he or she is entitled to access.

Continuing with MPEP § 103V.:

> "Special circumstances" could be found where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers.

However, Petitioner merely states in its Petition, through its attorney, that the July 23, 2008 To Whom It May Concern letter:

> was sent to a supplier for the petitioner, thereby interfering with petitioner's business

but does not provide any facts to the Office to support this conclusion that "interference" has occurred. Rather than providing the Office with declarations of facts or any other evidence

showing the existence of actual interference with its business so that the Office can make an independent analysis and judgement to determine if special circumstances exist, Petitioner apparently asks the Office to take its word that the letter has "interfered with its business." Neither the case law cited by Petitioner nor any other case law supports such a result.

In particular, in the case of Ex parte Bonnie-B Co., Inc. 1923 C.D. 42 cited by Petitioner, the applicant sent the Bonnie-B Co., Inc., a notice of infringement, which is not the case here. Merely stating that patent applications exist and are in full force (i.e., not abandoned) as was done in the July 23, 2008 To Whom It May Concern letter is not a notice of infringement.

The second case cited by Petitioner, In re Application for Trimless Cabinets, 128 USPQ 95 (1960), held that the:

> . . . fact that one notifies specific individuals that there is a pending application, which may cover product which individuals make, use, or sell, is not such interference as to warrant waiver of secrecy guaranteed by statute and Patent Office Rule 14,; thus, petition for access to application is denied.

In this case, Standard Fire Hose Company sent a letter to petitioner stating that Trimless Cabinets manufactured by the petitioner are an infringement of the claims of an application which Standard has pending. However, no allegation of infringement is included in the July 23, 2008 To Whom It May Concern letter about which Petitioner complains.

Petitioner also cites the case of In re Crossman, Konrick and LeMieux, 187 USPQ 367 (1975) to support its allegation of interference. In that case, the applicant sent a letter indicating that Brunswick Corp. would take prompt action to stop such sales when its patent issues. It was held that:

> it does not appear that Brunswick's warnings to petitioner and its actual or potential customers exceeded the bounds of propriety, or amounted to anything more than fair notice that it intended to enforce its patents when and if obtained on the subject applications. In short, petitioner has not demonstrated "special circumstances" justifying exception to the statutory mandate relating to confidential status of applications

Once again, the July 23, 2008 To Whom It May Concern letter does not include any statement of an intent to enforce patents against anyone.

Turning now to the last case cited by Petitioner to support its position, the Gardener v. Gendel case was a district court case that pertained to an unfair competition claim. In the Gardener case, the applicant sent a letter to customers of Gardener informing the recipients that they were infringing "patent rights" and the letter directly threatened the recipients with an action for patent infringement. However, there were no patent rights at that time.

Once again, the July 23, 2008 To Whom It May Concern letter relied upon by Petitioner does not contain any threat of an action for patent infringement. That letter does not support any finding of "special circumstances." There is no statement alleging any present existence of patent rights, any intent to enforce any patents or future patents against the recipient of the letter, or anything else that may qualify as "special circumstances."

In summary, Petitioner has not cited a single precedent by the Office or courts that support the finding of special circumstances in this case. All cases cited by Petitioner are based on the factual situation of alleging infringement or the express mention of an intent to enforce patents (which was found to not be "special circumstances").

In reviewing the July 23, 2008 To Whom It May Concern letter more closely, applicant would like to point out to the Office that no addressee is given, other than To Whom It May Concern. The subject block of the letter ("Re") merely states on its first line "Status of U.S. Patent Applications." The writer of the letter merely confirms in the body that applications are pending and in full force (not abandoned). There is nothing further in the letter to indicate to whom the letter was sent or delivered or for what purpose. Indeed, given the information provided in the letter alone, it appears to be a status letter for the patent applications of the applicant. Such status letters can have various purposes, one of which is to obtain financing for a company. Another is to reassure existing or potential investors that patent applications have been filed and remain in force at the USPTO. Another possible purpose is to inform or reassure a potential supplier that investing in the production of a material can be rewarded by the protection provided by possible future patents. None of these possible uses for the July 23, 2008 To Whom It May Concern letter support a finding of "special circumstances" by the Office and Petitioner has not provided any facts to the Office to indicate otherwise.

It was Petitioner's obligation to provide the Office with a showing that the July 23, 2008 To Whom It May Concern letter actually interfered with its business. Petitioner did not inform the Office of the circumstances under which the supplier received the July 23, 2008 To Whom It May Concern letter, although Petitioner could have done so. Petitioner did not name the supplier who received the July 23, 2008 To Whom It May Concern letter so that applicant could respond, although Petitioner could have done so. Petitioner did not provide the Office with facts about any negative effects the July 23, 2008 To Whom It May Concern letter had on the supplier, although Petitioner could have done, so if there were any. And Petitioner did not provide the Office with facts about how its business was interfered with by the letter, although it could have done so, if there really was any interference. In short, Petitioner had access to any facts that existed to support its position of business interference, yet Petitioner has chosen to remain silent about those facts. Applicant requests that this silence be construed against the Petitioner as an indication that there was no such business interference, and the petition denied.

In conclusion, applicant asserts that Petitioner has not met its obligation to make a showing that "special circumstances exist which warrant petitioner being granted access to all or part of the application," or its obligations to "show not only why access is desired, but also why petitioner believes he or she is entitled to access" under MPEP § 103V. Accordingly, applicant objects to granting the petition and requests that it be denied.

Respectfully submitted,
FULWIDER PATTON LLP

By: _____
Thomas A. Runk,
Registration No. 30,679

TAR/jb

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696

324695.1

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
ROBBERTS, Theunis C. et al. :
Application No. 12/013,164 :
Filed: January 11, 2008 :
Attorney Docket No. **ROBB-002** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 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 Michael Neustel on behalf of all attorneys of record who are associated with customer No. 65215. All attorneys/agents associated with the Customer Number 65215 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 Joe Smith at the address indicated below. There is an outstanding Office action mailed August 07, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THEUNIS ROBBERTS**
1013 GROVELAND AVENUE
CROOKSTON MN 56716

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Manuel J. Arco	: DECISION ON REQUEST FOR
Patent Number	: 7629298	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/013,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2008	: 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of
DODEL, Richard et al.
Application No. 12/013,185
Filed: January 11, 2008
Attorney Docket No. **029860-0182**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 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 R. Brian McCaslin on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **RICHARD DODEL**
FINKENWEG 17
35096 WEIMAR A.D. LAHN
DEUTSCHLAND
GERMANY

cc: **PHILLIPPS-UNIVERSITAET MARBURG**
BIEGENSTRASSE 10, UNIVERSITAETSTRASSE 10
MARBURG/KONSTANZ 35037/78464
GERMANY

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: THORIN A. ROGERS	: DECISION ON REQUEST FOR
Patent Number	: 7640840	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/013,285	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Date Mailed: October 14, 2008

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

Applicant: Philpott et al.
Appl. No.: 12/013,309
Filing Date: January 11, 2008
Title: ANALYSIS OF HIV-1 CORECEPTOR USE IN THE CLINICAL CARE OF HIV-1-INFECTED PATIENTS
Attorney Docket No.: 454311-2220.7
Pub. No.: US 2008/0227084 A1
Pub. Date: September 18, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on October 13, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, **as a Pre-Grant publication submission.**

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 10/16/2008 KKING1
10/14/2008 INTEFSW 00007877 12013309
01 FC:1504 -300.00 DP

Refund Ref:
10/16/2008 0030062406

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXXX1076

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/013,562	01/14/2008	Nobuhiro MAKI	Q102954	8870

23373 7590 03/15/2008

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
03/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAXVALUEIP CONSULTING LLC
11204 ALBERMYRTLE ROAD
POTOMAC MD 20854

In re Application of: MAKI et al	:	
Serial No.: 12/013562	:	DECISION ON PETITION TO
Filed: January 14, 2008	:	MAKE SPECIAL FOR NEW
Docket: Q102954	:	APPLICATION UNDER 37
Title: STORAGE SYSTEM	:	C.F.R. § 1.102 & M.P.E.P. §
	:	708.02
	:	

This is a decision on the petition filed on January 14, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

5. The petition must be filed with the application.

REVIEW OF FACTS

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it is a utility application filed under 37 CFR 1.111 (a) and was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of the Notice to File Corrected Application Papers on January 30, 2008 is evidence that the application was not complete and in condition for examination at the time of filing.

DECISION

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-4210. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.

Mano Padmanabhan
WQAS Technology Center 2100

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/013,562	01/14/2008	Nobuhiro MAKI	Q102954	8870

23373 7590 06/04/2008

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
KIM, MATTHEW M	

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
06/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of: MAKI et al	:	
Serial No.: 12/013,562	:	DECISION ON PETITION TO
Filed: January 14, 2008	:	MAKE SPECIAL FOR NEW
Docket: Q102954	:	APPLICATION UNDER 37
Title: STORAGE SYSTEM	:	C.F.R. § 1.102 & M.P.E.P. §
	:	708.02
	:	

This is a decision on the petition filed on January 14, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

A decision, denying this petition, was mailed on March 15, 2008, on the basis that the application was not complete, since the USPTO had sent a "Notice to file corrected application papers" on January 30, 1998. However on March 24, 2008, the USPTO withdrew this notice. Hence the petition for accelerated examination, filed on January 14, 2008 is being reconsidered.

On reconsideration, the petition to make the application special is **DISMISSED**, for the reasons set forth below.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application

claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5 - II.5.1, II.6.4 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5.2, II.5.3, II.6.1, II.6.2, II.6.3, and II.6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

With respect to item **II.5.2 and II.5.3** above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. The preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the (instant) claims.

The guidelines for Applicants under the New Accelerated Exam Proc states as follows in Part I item 8 section 2.: A text search of the US patents and published patent applications that covers the subject matter of the independent claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider **individual features by themselves and combinations of features**. The search should cover the **broadest scope encompassed by the claims as well as claims of narrow and intermediate breadth**.

Specifically and with respect to items 5.2 - 5.3 above, on the class/subclass search, given the total number of patents in all the class/subclasses listed as searched, **Petitioner should clarify if a limited classified search was conducted, and if so, how it was limited. Otherwise, a mere listing of class/subclass will be taken as a representation that all of the documents were reviewed in their entirety. Further, with respect to the text search, Petitioner should identify whether the text search logic identified in the instant petition was utilized in combination with the field of search (i.e. class/subclass listed in the preexam search document) or separate therefrom (i.e. state whether or not the identified subclasses were searched in their entirety).**

Further, the search logic has limited the search in the US Patents and EPO and JPO to **only the abstracts and claims** section of the respective documents, and hence the search is found to be too restrictive. The proximity operators used ("and", "or") do not place any valid relationships between words in the search, in keeping with the claimed invention, other than being found in the same document, and are seen to be inadequate. Furthermore, applicants have not included synonyms or variations of terms used in the search and other terms that appear in the claim language. Without including the further improvements to the search as outlined above, the search is not seen as encompassing the broadest reasonable interpretation of the claims as required, and thus the search is seen as being inadequate. **Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the**

search covered these concepts, and update the search and/or provide any clarifications. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc.

In addition, petitioner should **review the Identification of Limitations disclosed by References and the Detailed Explanation of Patentability** sections **in view of updated search, and changes and clarifications, and provide clarifications, as necessary, to ensure compliance with the requirement of items 6.2 and 6.3 above.**

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item **6.1 above**, the Accelerated Examination support Document fails to provide an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims. The IDS document submitted is blank and does not list any references at all.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item **6.2 above**, with regard to Black reference, applicant lists the limitation "wherein the first processor manages at least one from among the first storage device and first memory as a plurality of logical volumes, can control as a plurality of logical storage systems having at least one logical volume, and performs communication with the second storage system via the first interface" of claim 9 on page 12 of AESD. It is not clear whether applicant considers that the limitations listed is taught by Black reference or not. Applicant is required to clarify the position regarding this limitation with reference to Black reference, and if taught by Black, identify the section of the reference that discloses this limitation.

In addition, petitioner should review the Detailed Explanation of Patentability section in view of changes and clarifications and provide clarifications, as necessary, to ensure compliance with the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and item **II 6.3**, the Accelerated Examination Support Document (AESD) does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). In section 9(C) of the AESD, petitioner merely asserts that the claim is patentably distinguishable over each of the cited references, whether considered alone or in combination, since the references fail to teach or suggest some or all of the features listed. That is, the petition does not specifically properly compare/contrast the claimed invention with respect to the relevant teachings in the prior art in the identified references. A general allegation that "all of the references fail to at least teach ... and therefore patentably distinguish over each of the references alone or in combination" does not comply with the requirements. Petitioner fails to clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. For these reasons, the petition does not meet the requirement of MPEP § 708.02(a)(I.)(I)(3). Further, the limitations "the second processor communicates with the first storage system via the second interface by using an identifier of the storage system that has been transmitted from the first storage system" is listed in this section as being some of the

patentably distinguishing features; yet this limitation is also listed as being taught by Mahalingam references. Petitioner is requested to clearly point out claim limitations not taught by any of the references and how the limitations are patentably distinguishing over the references cited alone or in combination. It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention, and will be properly analyzed in the Support Document included with any renewed petition.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item **6.5** above, the Accelerated Examination Support Document is **required to show where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification**. Applicant has provided same set of plurality of pages to teach most of the claim limitations. **Applicant must identify portions of text in the specification by page and line number, for each of the claim limitations, as providing support under 35 U.S.C. 112, First paragraph**. A clarification and identification of support is required.

Other Observations: On Page 2 section(G) of the petition, applicant states :
(G) Applicant agrees not to separately argue patentability of dependent claims. Applicant agrees that dependent claims will be grouped together with the corresponding independent claim and agrees not to separately argue patentability of dependent claims during any appeal process related to the above-mentioned application. Applicant has noted the patentable features of dependent claims 2, 3, 19 and 20 in the event that prior art is identified that leads to a determination that claim 1 is not patentable.
However, the instant application only has 9 claims. Applicant is requested to clarify this section.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-4210. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.

Mano Padmanabhan,
WQAS Technology Center 2100

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1077 NORTHERN BLVD
ROSLYN, NY 11576

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NOV 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Steve Campolo, et al. :
Application No.: 12/013,577 : ON PETITION
Filed: January 14, 2008 :
Attorney Docket No.: CAMPOLO EA-1 CON :

This is a decision on the petition, filed November 22, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 9, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2836 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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IRVINE, CA 92618

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NOV 24 2009

OFFICE OF PETITIONS

In re Application of.	:	
Chih-Kang Yeh	:	
Application No. 12/013,632	:	NOTICE
Filed: January 14, 2008	:	
Attorney Docket No. JCLA25085	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent 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) 272-6059.

C. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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HARTFORD CT 06103

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SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Crawford	:	
Application No. 12/013,642	:	DECISION
Filed/Deposited: 14 January, 2008	:	
Attorney Docket No. FIS920070303US1	:	

This is a decision on the petition filed on 17 March, 2008, under 37 C.F.R. §1.53, requesting a filing date of14 January, 2008, for drawing FIG. 9 described in the specification.

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 14 January, 2008.

On 22 January, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Omitted Items, to wit: FIG. 9 described in the specification. Thus, the application was accorded a filing date, but without the drawing in question.

OPAP indicated that Petitioner might:

- contend via petition that 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 drawing; or

- submit the drawing and accept that date of deposit as the date of filing; or

- accept the application as filed.

OIPE set a two- (2-) month period for reply.

Petitioner appears to have chosen none of the above.

On 17 March, 2008, Petitioner submitted the instant petition, including therewith, *inter alia*, what was averred to be a true copy of drawing FIG. 9 described in the specification—and appears to seek entry thereof, though Petitioner submitted no amendment—and Petitioner submitted no date-stamped receipt card. (The Office always directs Petitioner to submit a true copy of the date-stamped receipt card (*see*: MPEP §503); alternatively, an acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007).)

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 14 January, 2008.

- The Office record reflects that the drawing FIG. 9 described in the specification was missing on deposit.

A review of the EFS Acknowledgement Receipt available online in the application indicates that eight (8) drawing figures were submitted and received.

Notably, a review of the drawing figures deposited on 14 January, 2008, reveals that the eight (8) sheets of drawings are enumerated as: 1/8, 2/8, 3/8 ... 8/8.

By contrast, the drawings submitted by Petitioner on 17 March, 2008 are enumerated as: 1/9, 2/9, 3/9 ... 9/9.

Because Petitioner failed to provide a evidence of receipt of drawing FIG. 9 described in the specification, it is not possible as of this writing to conclude that: (a) drawing FIG. 9 described in the specification was present on deposit, and so (b) drawing FIG. 9 described in the specification is due a 14 January, 2008, filing date.

Accordingly, drawing FIG. 9 described in the specification is not entitled to a 14 January, 2008, filing date.

As of this writing, the Notice mailed on 22 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 22 January, 2008, was mailed in error.

The application is released to OPAP for further processing consistent with this decision and with a filing date for the application of 14 January, 2008, without drawing FIG. 9 described in the specification.

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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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OFFICE OF PETITIONS

In re Application of :
Truitt :
Application No. 12/013,713 : Decision According Status
Filed: January 14, 2008 : Under 37 CFR 1.47(b)
Attorney Docket No. WGP-38572US1 :
For: Refrigeration Appliance Dispenser :

This is in response to the petition under 37 CFR 1.47(b) filed July 2, 2008.

The petition is **granted**.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Technology Center Art Unit 3744 will be informed the declaration has been accepted without the signature of the inventor and the applications is in condition to be examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McDERMOTT WILL EMERY, LLP
600 13TH Street, NW.
Washington, DC 20005-3096

MAR - 3 2008

In re Application of	:	DECISION ON REQUEST TO
Tsutomu KANNO et al.	:	PARTICIPATE IN PATENT
Application No. 12/013795	:	PROSECUTION HIGHWAY
Filed: January 14, 2008	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 071025-0031	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed February 4, 2008 and the preliminary amendment filed January 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kathryn Gorgos
TQAS TC 1700

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

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Michael Joseph Magnotta et al. :
Application No. 12/013,816 : ON PETITION
Filed: January 14, 2008 :
Attorney Docket No. 1160215-0481798 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 4, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

There is no indication that the person signing the instant petition "Ria Farrell Schalnat" was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition does not constitute as representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts as the registration number in the Office's database does not match with the attorney's name listed on the petition. Therefore, we cannot accept the signature on the instant petition and the petition cannot be granted at this present time.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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SEP 15 2009

OFFICE OF PETITIONS

In re Application of :
Michael Joseph Magnotta et al. :
Application No. 12/013,816 : DECISION ON PETITION
Filing Date: January 14, 2008 :
Attorney Docket No. 1160215-0481798 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 4, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of additional claim fees, (2) the petition fee of $1,620 (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
12/013,816	01/14/2008	Michael Joseph Magnotta	1160215-0481798

CONFIRMATION NO. 9335

POA ACCEPTANCE LETTER

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

Date Mailed: 09/11/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2009.

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.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Takeo Sasanuma	: DECISION ON REQUEST FOR
Patent Number	: 7637148	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/013,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **170** 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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HOFFMANN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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AUG 21 2008

OFFICE OF PETITIONS

In re Application of :
de Boer, et al. :
Application No. 12/013,831 : DECISION ACCORDING STATUS
Filed: January 14, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 294-270 :
PCT/US/CIP/II

This is in response to the petition under 37 CFR 1.47(a), filed August 12, 2008.

The petition under 37 CFR 1.47(a) is **GRANTED**.

On petition, petitioner has established that inventor Schmidt has refused to sign the application papers. Specifically, petitioner stated that a copy of the application papers was forwarded to the last known address of Schmidt on March 6, 2008. However, as of the date of the petition, no executed declaration from Schmidt has been received.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDUAD DANIEL LEENDERT SCHMIDT
BEELAERTSLAAN 41
NL-6861 AT OOSTERBEEK
THE NETHERLANDS

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AUG 21 2008

OFFICE OF PETITIONS

In re Application of
de Boer, et al.
Application No. 12/013,831
Filed: January 14, 2008
Title: Method to Prime Plants in Order to Increase their Pathogen Resistance

LETTER

Dear Mr. Schmidt:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

TEES CONSULTING CORP.
2880 TRIMBLE STREET
VANCOUVER BC V64 4L4 CA CANADA

In re Application of :

DELANEY, Allen et al. :
Application No. 12/013,884 : DECISION ON PETITION
Filed: January 14, 2008 : TO WITHDRAW
Attorney Docket No. **KINE-023CON** : 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 17, 2009.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Pamela Sherwood on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Allen Delaney at the address indicated below. There is an outstanding Office action mailed September 28, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ALLEN DELANEY**
1633 WEST 65TH AVENUE
VANCOUVER BC
V6P 2R2
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

HARMAN - BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of
AZIZI, Seyed- Ali et al.
Application No. 12/013,943
Filed: January 14, 2008
Attorney Docket No. **11336/1814 (P05068US)**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to HARMAN - BRINKS HOFER CHICAGO has been revoked by the assignee of the patent application on July 22, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THE ECLIPSE GROUP LLP**
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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.
12/013,952	01/14/2008	Hoi Y. Chan	YOR920070488US1 (21558)	9593

48233 7590 02/29/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
LEE, THOMAS C	

ART UNIT	PAPER NUMBER
2115	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

In re Application of: CHAN, et al.
Serial No.: 12/013,952
Filed: January 14, 2008
Docket: YOR920070488US1
Title: ADAPTIVE DYNAMIC BUFFERING SYSTEM FOR POWER MANAGEMENT IN SERVER CLUSTERS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 14, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees that the dependent claims will be grouped together with and not to separately argue the patentability of any independent claim from which they depend during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I. 1-4 & II. 1-5.1, 6.1, 6.2 & 6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.2 - 5.3 & 6.3 - 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items 5.2 - 5.3 above, the preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the (instant) claims.

Specifically and with respect to items 5.2 - 5.3 above, Petitioner should identify whether the text search logic identified in the instant petition was utilized in combination with the field of search (i.e. class/subclass - cl. 713/323, 320, 375, 310, 300, 340; cl.709/226, 200-204, 217, 219, 224; cl. 714/14, 22; cl. 718/1-106; and cl. 700/19-22, 291) or separate therefrom (i.e. state whether or not the identified subclasses were searched in their entirety). In addition, based upon the claimed subject matter of the instant application, a search in the following class and subclass(es) is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: 713/324 as well as 709/223, 226. Further, EAST (all databases) as well as the IEEE database should be searched (in combination with the search logic identified below) and would be a necessary search for the pending instant claims.

With respect to the search logic identified, and in particular with respect to claims 1 and 2, the following keyword (claim language) search is recommended to complete the search:
(allocat$3 redistribut$3) near5 (resouce$1) with (load workload)
calculat$3 near3 index with (time near4 valueS1)
(avoid$3 prevent$3) near4 frequent$2 near8 ((off down) near3 power) same server$1

The additional search areas and search recommendations were confirmed with and recommended by a (primary) examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Specifically, Petitioner does not clearly point out the particular language of the instant claims 1 and 2 that distinguishes i.e. the patentability analysis does not track consistently with the identification of limitations in the claims. For instance, under "Detailed Explanation of Patentability" on page 10 of the instant petition, Petitioner identified the following language as not taught by any of the cited reference: "a dynamic buffering system (a server buffer tool) that includes a set of servers as a workload buffer ... for transitioning between each of the power states in the second ready server group": or "where M_min represents a minimum acceptable delay time for switching ... when all computing devices are in a powered off state" or "N = number of total ready computing devices .....".

[1] MPEP 8th ed. rev 5 August 2006

However, the language identified above is currently not found in the pending instant claims. For these reasons, the petition does not meet the requirement of MPEP § 708.02(a)(I.)(I)(3).

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in <u>each</u> of the independent claims*** i.e. reference must be made to the "***method*** for managing power consumption in a system ... " as recited in claims 1 and 2. The instant petition merely references "a dynamic buffering system ...". Correction is required.

With respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, Petitioner fails to identify where each limitation <u>of the instant claims</u> finds support under 35 USC 112, first paragraph, in the written description of the specification. Support for each limitation of each pending claim must be proper identified. Specifically, reference is made to the following claim recitations: the preamble recitation in pending claim 1; as well as claim 1 recitation beginning on line 17 and following. Contrary to that indicated by Petitioner, these identified claim 1 limitations cannot be located in paragraphs [0034] and [0035] of the instant specification. Where necessary, Petitioner should reference drawing figures, element numbers, paragraph and line numbers in support of the instant claim limitations. Clarification and identification of support is required.

Thus, the petition does not meet the conditions II. 5.2-5.3 and 6.3-6.5 above.

DECISION

For the above-stated reasons, the petition is **<u>DISMISSED</u>**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given ***a single opportunity*** to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is permitted) from the date of this decision in order to be considered timely. Any request for reconsideration ***must fully address all of the deficiencies indicated above***. [emphasis added]

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.

Brian L. Johnson
Quality Assurance Specialist, WG 2110
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/013,952	01/14/2008	Hoi Y. Chan	YOR920070488US1 (21558)	9593

48233 7590 05/06/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
LEE, THOMAS C	

ART UNIT	PAPER NUMBER
2115	

MAIL DATE	DELIVERY MODE
05/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

5/5/08

In re Application of: Chan, et al.
Serial No.: 12/013,952
Filed: January 14, 2008
Docket: YOR920070488US1 (21558)
Title: **ADAPTIVE DYNAMIC BUFFERING SYSTEM FOR POWER MANAGEMENT IN SERVER CLUSTERS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on March 31, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on January 14, 2008 was dismissed in the decision mailed on February 29, 2008.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not

file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

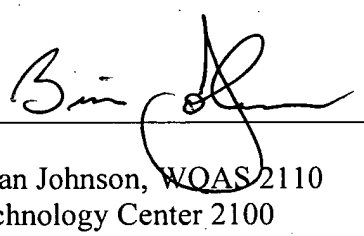
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application. In addition, Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.



Brian Johnson, WQAS 2110
Technology Center 2100
Computer Architecture, Software and Information Security

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Paper No.

BELL, BOYD & LLOYD, LLP
P.O. Box 1135
CHICAGO IL 60690

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of :
Harkensee et al. : DECISION ON PETITION
Application No. 12/013,959 :
Filed: January 14, 2008 :
Attorney Docket No. 115517-012:

This is a decision on the PETITION FOR DATE OF DEPOSIT UNDER 37 CFR §1.53(e), filed March 14, 2008. Applicants petition that the filing date of January 14, 2008 should be applied to the specification in its entirety including blank page 18 as originally filed. In effect, applicants request that the Notice to File Missing Parts of Application, to the extent that it states that page 18 of the specification was omitted, be withdrawn.

Application papers in the above-identified application were deposited via EFS-Web on January 14, 2008. However, on February 4, 2008, the Office mailed a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had been accorded a filing date of January 14, 2008; however, page 18 of the specification appeared to have been omitted from the application. (In addition, the oath or declaration was missing).

In response, applicants timely filed the instant petition (and petition fee). (Applicants also submitted an executed declaration and the late surcharge). Applicants contend that page 18 of the specification was in fact deposited in the U.S. Patent and Trademark Office with the nonprovisional application papers on January 14, 2008. Applicants submit that due to a formatting condition in the word-processing application with which Applicant prepared the nonprovisional application, page 18 is blank with the exception of a page number. In support

thereof, applicants submit a copy of their acknowledgment receipt.

It is obvious from the petition (and a review of the application file) that neither page 18 of the specification nor the contents of page 18 were missing on January 14, 2008. Rather, as a result of applicants' filing error, applicants unintentionally filed a blank page 18. No phrase such as this page is intentionally left blank was on the page. Thus, the "Notice to File Missing Parts of Application" mailed February 4, 2008, was correct in stating that page 18 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition is DISMISSED to the extent indicated herein.

The petition fee is required, since the petition was not necessary to correct any PTO error.

This application is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing with a filing date of January 14, 2008, using the application papers received on that date.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 14 2008

OFFICE OF PETITIONS

J M HUBER CORPORATION
333 THORNALL STREET
PATENT DEPARTMENT
EDISON, NJ 08837-2220

In re Application of	:	
Bennett et al.	:	Decision Noting Joinder of Inventor and
Application No. 12/014,008	:	Decision Dismissing Any Request for
Filed: January 14, 2008	:	Status Under 37 CFR 1.47 as Moot
Attorney Docket No. 05-415B	:	

This is a decision on the petition under 37 CFR 1.47(a) filed April 1, 2008, and supplemented April 4, 2008.

The instant petition requests the declaration be accepted without the signature of inventor Richard Jordan.

On April 4, 2008, petitioner filed a declaration signed by Richard Jordan.

In view of the joinder of Richard Jordan, status under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,034	01/14/2008	Thomas E. Ramsay	052134.0018 (GTI-0015C1)	9752

68733 7590 03/24/2010

Rene A. Vazquez
P.O. Box 9744
McLean, VA 22102

EXAMINER	
CARTER, AARON W	
ART UNIT	**PAPER NUMBER**
2624	

NOTIFICATION DATE	DELIVERY MODE
03/24/2010	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):

rvazquez@sinergialaw.com

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MAIL

MAR 24 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Rene A. Vazquez
P.O. Box 9744
McLean, VA 22102

In re Application of :
Thomas E. Ramsay, *et al.* :
Serial No.: 12/014,034 :
Filed: January 14, 2008 :
For: **METHOD FOR CREATING A DIVERGENCE TRANSFORM FOR IDENTIFYING A FEATURE OF INTEREST IN HYPERSPECTRAL** :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84 filed January 14, 2008 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1 – 3, 6A, 6B, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 8I, 8J, 8K, 8L, 8M, 8N, 9 – 14, 15A, 15B, 15C, 16A, 16B, 17, 18, 19A, 19B, 20 – 22, 23A, 23B, 24A, 24B, 25B, 26 – 28, & 29 - 45 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

Best Available Copy

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,038	01/14/2008	Jong-woo Choi	60490/S1187	9759

7590 07/09/2010

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
07/09/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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.
12/014,043	01/14/2008	Thomas E. Ramsay	GTI-0021C1	9771

68733 7590 03/24/2010

Rene A. Vazquez
P.O. Box 9744
McLean, VA 22102

EXAMINER	
CARTER, AARON W	
ART UNIT	**PAPER NUMBER**
2624	

NOTIFICATION DATE	DELIVERY MODE
03/24/2010	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):

rvazquez@sinergialaw.com

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Rene A. Vazquez
P.O. Box 9744
McLean, VA 22102

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MAR 24 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Thomas E. Ramsay, *et al.* :
Serial No.: 12/014,043 :
Filed: January 14, 2008 : DECISION ON PETITION
For: **SYSTEM AND METHOD FOR DETERMINING WHETHER THERE IS AN ANOMALY IN DATA** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84 filed January 14, 2008 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1 – 3, 6A, 6B, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 8I, 8J, 8K, 8L, 8M, 8N, 9 – 14, 15A, 15B, 15C, 16A, 16B, 17, 18, 19A, 19B, 20 – 22, 23A, 23B, 24A, 24B, 25B, 26 – 28, & 29 - 45 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Chang-yeul KWON	: DECISION ON REQUEST FOR
Patent Number	: 7606211	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/014,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2008	: 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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Edward J. STEVENSON, et al	:	
Application No. 12/014,058	:	DECISION ON PETITION
Filed: January 14, 2008	:	
Attorney Docket No. 61286/S1103	:	

This is a decision on the petition under 37 CFR 1.182, filed October 31, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 1795 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-

Thurman Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/014,058	01/14/2008	1795	485	61286/S1103	22	1

CONFIRMATION NO. 9807

CORRECTED FILING RECEIPT

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

OC000000034379911

Date Mailed: 02/04/2009

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)

Bruce M. Khouri, Glendale, CA;
Edward J. Stevenson, Malibu, CA;

Assignment For Published Patent Application

Solar Integrated Technologies, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/351,299 01/23/2003 PAT 7,342,171

Foreign Applications

If Required, Foreign Filing License Granted: 02/20/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/014,058**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

INTEGRATED PHOTOVOLTAIC ROOFING COMPONENT AND PANEL

Preliminary Class

136

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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APR 12 2010

OFFICE OF PETITIONS

MARTINE, PENILLA & GENCARELLA, LLP
Suite 200
710 Lakeway Drive
Sunnyvale CA 94085

In re Patent No. 7,659,861
Issue Date: February 9, 2010
Application No. 12/014,080
Filed: January 14, 2008
Attorney Docket No. JLINP209

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 29, 2010.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 0 7 2008

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Booth Udall, PLC
1155 W. Rio Salado Parkway, Ste. 101
Tempe, AZ 85281

In re Application of
Stephen L. Rush
Serial No.: 12/014090
Filed: January 14, 2008
Attorney Docket No.: 1300.002

: DECISION ON PETITION TO MAKE
: SPECIAL FOR NEW APPLICATION
: UNDER 37 C.F.R. § 1.102 & M.P.E.P.
: § 708.02

This is a decision on the petition filed January 14, 2008, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in an agreement that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a Final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the Final Office action, applicant must: 1) promptly file a Notice of Appeal, an Appeal Brief and Appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after Final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

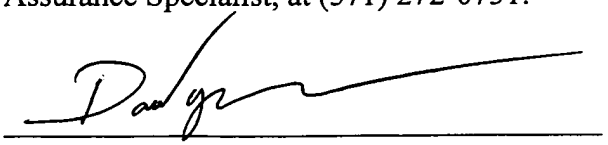
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a Final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Dave Nguyen, TC1600 Quality Assurance Specialist, at (571) 272-0731.



Dave T. Nguyen
TC1600 Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUL 24 2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re application of Naoki Nishimura Application No. 12/014,137 Filed: January 15, 2008 For: PARKING LOCK DEVICE FOR AUTOMATIC TRANSMISSION	:	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 21, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

In light of the preliminary amendment filed July 21, 2009 and the IDS filed March 5, 2009, the request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 7/23/09

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JUL 06 2009

OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of
Brian J. Brown et al
Application No. 12/014,178
Filed: January 15, 2008
Attorney Docket No. S63.2-10877-US02

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with customer no. 23869 have been revoked by the assignee of the patent application on May 22, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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NOV 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Takashi Yoshimaru et al. :
Application No. 12/014,328 : ON PETITION
Filed: January 15, 2008 :
Attorney Docket No. **TTA-6106** :

This is a decision on the petition filed October 22, 2008, to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.181(b) in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned April 14, 2008 for failure to file a timely response to the Notice to File Missing Parts mailed February 11, 2008. Accordingly, a Notice of Abandonment was mailed October 10, 2008.

The file record discloses that the Notice to File Missing Parts was mailed to the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that the Notice to File Missing Parts was not received. In support, petitioner indicates that a search of the file jacket and the docket records revealed that the Notice was not received and submits copies of pages from docket records, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice to File Missing Parts.

In view of the facts set forth in the petition, it is concluded that the Notice to File Missing Parts was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to the Office of Patent Application Processing for a re-mailing of the Notice to File Missing Parts.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Jechan Kim :
Application No. 12/014,341 : DECISION ON PETITION
Filed: January 15, 2008 : TO WITHDRAW
Attorney Docket No. 9145.0097-00 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 16, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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NOV 18 2009

OFFICE OF PETITIONS

In re Application of :
Jechan Kim :
Application No. 12/014,341 : DECISION ON PETITION
Filed: January 15, 2008 : TO WITHDRAW
Attorney Docket No. 9145.0097-00 : FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 6, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 22852 has been revoked by the assignee of the patent application on November 12, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

It is noted that the assignee's statement under 37 CFR 3.73(b) did not include the language that "[t]he undersigned (whose title is supplied below) is authorized to act on behalf of the assignee". However, the Office has acknowledged and will construe the title "VP, General Counsel" associated with the person who signed the power of attorney as having apparent authority to sign on behalf of the assignee. *See MPEP § 324(V)(A).*

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

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DEC 07 2009

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Ron Urban et al. :
Application No. 12/014,360 : DECISION ON PETITION
Filed: January 15, 2008 : TO WITHDRAW
Attorney Docket No. 8285-953 (A00331) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Scott W. Brim and attorneys/agents associated with customer number 00757: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The address of record will remain the same. The correspondence address can not be changed at this time. A statement under 37 CFR 3.73(b) must be submitted to correct the application file and update the correspondence address.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: AT&T Intellectual Property 1, L.P.
Attn: Patent Docketing Room 2A-207
One AT&T Way
Bedminister, NJ 07921

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Cooper & Dunham, LLP
30 Rockefeller Plaza
20th Floor
New York NY 10112

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MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenneth F. Defreitas, et al.	:	
Application No. 12/014,405	:	DECISION GRANTING PETITION
Filed: January 15, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1166/65898-PCT-US-B	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 19, 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 May 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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30 Rockefeller Plaza
20th Floor
New York NY 10112

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenneth F. Defreitas, et al.	:	
Application No. 12/014,405	:	DECISION GRANTING PETITION
Filed: January 15, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1166/65898-PCT-US-B	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 19, 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 May 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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AUG 15 2008

In re Application of	:	
Kavanaugh et al.	:	
Application No.: 12/014418	:	ON PETITION
Filing or 371(c) Date: 01/15/2008	:	
Attorney Docket Number:	:	
1035-A4688-US	:	

This is a decision on the petition under 37 CFR 1.182, filed June 9, 2008, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Michael D. Kavanaugh
2. Claire M. Theron
3. Doruk O. Yener
4. Ralph Bauer
5. Andrew G. Haerle

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to Technology Center Art Unit 1794 for examination in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/014,418	01/15/2008	1794	1580	1035-A4688-US	20	5

CONFIRMATION NO. 1551

CORRECTED FILING RECEIPT

69684
LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

Date Mailed: 08/07/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael D. Kavanaugh, North Grafton, MA;
Claire M. Theron, Marlboro, MA;
Doruk O. Yener, Grafton, MA;
Ralph Bauer, Niagara Falls, CANADA;
Andrew G. Haerle, Sutton, MA;

Assignment For Published Patent Application

SAINT-GOBAIN CERAMICS & PLASTICS, INC., Worcester, MA

Power of Attorney: The patent practitioners associated with Customer Number 69684

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/884,925 01/15/2007

Foreign Applications

If Required, Foreign Filing License Granted: 02/04/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/014,418**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CERAMIC PARTICULATE MATERIAL AND PROCESSES FOR FORMING SAME

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN.FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

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SEP 17 2008

In re Application of	:	
Dirk BOECKER, et al	:	
Application No. 12/014,421	:	DECISION ON PETITION
Filed: January 15, 2008	:	TO WITHDRAW
Attorney Docket No. 38187-2912	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 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 Leslie B. Overman on behalf all attorneys of record associated with Customer Number 25213.

All attorneys of record associated with Customer Number 25213 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DIRK BOECKER
1652 CASTILLEJA AVENUE
PALO ALTO, CA 94306

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

MAILED

FEB 26 2010

OFFICE OF PETITIONS

In re Application of :
Dirk Boecker et al. :
Application No. 12/014,421 : DECISION ON PETITION
Filed: January 15, 2008 :
Attorney Docket No. **PEL-2912** :

This is a decision on the petition under 37 CFR 1.182, filed December 7, 2009, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The fee for a petition under 37 CFR 1.182 to change the order of the names of the inventors is $400. However, the $130 petition fee submitted will be applied towards the $400 petition fee. Therefore, the balance of $270 will be charged to petitioner's deposit account as authorized.

This application is being referred to Technology Center AU 3736 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-571-272-4584.

JoAnne Burke
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
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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
12/014,421	01/15/2008	3736	960	PEL-2912	8	8

CONFIRMATION NO. 1554

CORRECTED FILING RECEIPT

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

OC000000040301660

Date Mailed: 02/25/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Dominique M. Freeman, La Honda, CA;
Don Alden, Sunnyvale, CA;
Dirk Boecker, Palo Alto, CA;

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This application is a DIV of 10/335,215 12/31/2002 PAT 7,563,232
which is a CIP of 10/127,395 04/19/2002 PAT 7,025,774

Foreign Applications

If Required, Foreign Filing License Granted: 04/22/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/014,421**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHODS AND APPARATUS FOR PENETRATING TISSUE

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City UT 84110

MAILED

JAN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Kolomeitsev et al.	:	DECISION ON PETITION
Application No. 12/014,426	:	TO WITHDRAW
Filed: January 15, 2008	:	FROM RECORD
Attorney Docket No. 52109.0014	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 1, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

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HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City UT 84110

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FEB 12 2010

In re Application of	:	
Kolomeitsev et al.	:	DECISION ON PETITION
Application No. 12/014,426	:	TO WITHDRAW
Filed: January 15, 2008	:	FROM RECORD
Attorney Docket No. 52109.0014	:	

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 January 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 L. Grant Foster on behalf of all attorneys of record who are associated with Customer No. 57600.

All attorneys/agents associated with Customer Number 57600 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed February 4, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sergei Kolomeitsev
975 North 1430 West
Orem, UT 84057

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Zafirios Gourgouliatos, et al.	:	
Application No. 12/014,450	:	DECISION ON PETITION
Filed: January 15, 2008	:	TO WITHDRAW
Attorney Docket No. LNLL-0113 (082203-0401)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2009.

The request is **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 petitioner has not provided a new correspondence address for applicant.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/20/10 Paper No.: —

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/014460 Patent No.: 7639016 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

/Patrick Assouad/ 2858

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26TH FLOOR
BOSTON, MA 02199-7610

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Zafirios Gourgouliatos, et al.	:	
Application No. 12/014,462	:	DECISION ON PETITION
Filed: January 15, 2008	:	TO WITHDRAW
Attorney Docket No. LNLL-0112 (082203-0301)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on June 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 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: LERNER MEDICAL DEVICES, INC
1545 SAWTELLE BOULEVARD
SUITE 36
LOS ANGELES, CA 90025

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
12/014,462	01/15/2008	Zafirios Gourgouliatos	LNLL-0112 (082203-0301)

CONFIRMATION NO. 1638

POWER OF ATTORNEY NOTICE

48329
FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

Date Mailed: 09/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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GRANT ANDERSON LLP
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JUL 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Greg Liang :
Application No. 12/014,577 : DECISION ON PETITION
Filed: January 15, 2008 : TO WITHDRAW
Attorney Docket No. ACR-1005-UT : 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 11, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sheryl R. Silverstein on behalf of attorney/agents associated with customer number 69406. All attorneys/agents associated with customer number 69406 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Greg Liang
Acro Biotech, LLC
9500 7th Street, Unit M
Rancho Cucamonga, CA 91730

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
12/014,577	01/15/2008	Greg Liang	ACR-1005-UT

CONFIRMATION NO. 1842

POWER OF ATTORNEY NOTICE

69406
GRANT ANDERSON LLP
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

OC000000036784461

Date Mailed: 07/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FEB 07 2008

OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

In re Application of :
John P. LEDOUX :
Application No. 12/014,617 : DECISION ON PETITION
Filed: January 15, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 4561P3279 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 16 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant drivers 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

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FLETCHER YODER (MICRON TECHNOLOGY, INC.)
P.O. BOX 692289
HOUSTON, TX 77269-2289

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FEB 12 2010

In re Application of :
Satoru Tamada :
Application No.: 12/014,658 : ON PETITION
Filed: January 15, 2008 :
Attorney Docket No.: MICS:0235/MAN/TUC :

This is a decision on the petition, filed February 5, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 24, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Muncy, Geissler, Olds & Lowe, PLLC
P.O. BOX 1364
Fairfax, VA 22038-1364

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OFFICE OF PETITIONS

In re Application of
Harald Schelbert, et. al.
Application No. 12/014,740
Filed: January 15, 2008
Attorney Docket No. 1005/0125PUS1

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) 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 Martin R. Geissler on behalf of all attorneys/agents of record who are associated with customer No. 60601. Therefore, Martin R. Geissler and all the attorneys/agents of record who are associated with customer No. 60601 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.

The application became abandoned for failure to timely reply to the non-final Office action mailed March 5, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Preh GmbH
An der Stadthalle
Bad Neustadt, D-97616
GERMANY

[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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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

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OCT 19 2009

OFFICE OF PETITIONS

In re Application of :
Andreas Kramlich :
Application No. 12/014,757 : DECISION ON PETITION
Filed: January 15, 2008 : TO WITHDRAW
Attorney Docket No. BAW0048US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 3, 2009.

The request is **APPROVED**.

A review of the file record indicates that Martin R. Geissler: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Martin R. Geissler has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Martin R. Geissler
4000 Legato Road, Suite 310
Fairfax, VA 22033

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JAMES M. FRANCIS
300 W VINE ST
STOLL KEENON OGDEN PLLC
LEXINGTON, KY 40507

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MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Scott Meeker :
Application No. 12/014,766 : DECISION GRANTING PETITION
Filed: January 16, 2008 :
Attorney Docket No.FK001 :

This is a decision on the petition filed April 7, 2008, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed February 5, 2008. The petition will be treated under 37 CFR 1.53.

On January 16, 2008, the application was deposited.

On February 5, 2008, the Office of Patent Application Processing mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on April 7, 2008. Petitioner argues that the application should be accorded a filing date of January 16, 2008, because although drawings were omitted from the papers filed January 16, 2008, they are not necessary to understand the invention claimed.

It has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process, composition, or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that several claims in the disclosure are method claims. Therefore, the application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as filed, was entitled to the filing date of January 16, 2008.

The application is being forwarded to the Office of Patent Application Processing for issuance of a corrected filing receipt and for further processing with a filing date January 16, 2008, and an indication in Office records that no drawings were present on filing. Prior to the first action on the merits, a preliminary amendment should be filed correcting the inconsistency between the specification and the disclosure of record.

The petition fee of $400.00, will be refunded, in due course.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya G. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MEGICA CORPORATION
SCIENCE-BASED INDUSTRIAL PARK
ROOM 301/302, NO. 47, PARK 2ND RD.
HSINCHU 30075 TW TAIWAN

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of :
Mou-Shiung Lin et al :
Application No. 12/014,812 : DECISION ON PETITION
Filed: January 16, 2008 :
Attorney Docket No. MEG 04-016-E01 :

This is a decision on the petition under 37 CFR 1.314, filed July 7, 2009, to defer issuance of the patent.

The petition is **DISMISSED.**

The petition received on July 7, 2009 is signed by Mou-Shiung Lin, "For and on behalf of MEGICA Corporation." Communications received at the USPTO must be signed by one of the following: See 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be

signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: blank 37 CFR 3.73(b)

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ROOM 301/302, NO. 47, PARK 2ND RD.
HSINCHU 30075 TW TAIWAN

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
Mou-Shiung Lin, et al :
Application No. 12/014,812 : ON PETITION
Filed: January 16, 2008 :
Attorney Docket No. MEG 04-016-E01 :

This is a decision on the petition, filed July 20, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2895 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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10 OCT 2008

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of:	:	
GODSK, Kristian, Balschmidt, et al.	:	DECISION ON PETITION
U.S. Application No.: 12/014,844	:	UNDER 37 CFR 1.137(b)
Receipt Date: January 16, 2008	:	
Attorney Docket No.: 04933-P0001A	:	
For: PITCH CONTROLLED WIND TURBINE BLADE, A WIND TURBINE AND USE THEREOF	:	

This decision is issued in response to the "Petition To Revive Patent Application For Unintentional Delay Under 37 CFR 1.137(b)" filed January 16, 2008. Applicant has paid the required petition fee.

BACKGROUND

On May 17, 2005, applicants filed international application PCT/DK2005/000324. The application did not claim an earlier priority date, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., November 17, 2007.

A request for entry into the U.S. national stage and payment of the basic national fee was not submitted on or prior to November 17, 2007. Accordingly, international application PCT/DK2005/000324 became abandoned with respect to the United States at midnight on November 17, 2007 (see 35 U.S.C. 371(d); 37 CFR 1.495(h)).

On January 16, 2008, applicants filed the present application under 35 U.S.C. 111(a). The first sentence of the description identifies the present application as "a continuation of pending International patent application PCT/DK2005/000324 filed on May 17, 2005." The submission was accompanied by the petition for revival of international application PCT/DK2005/000324 considered herein.

DISCUSSION

The present petition was accompanied by payment of the required petition fee, and the petition includes 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," satisfying the requirements of 37 CFR 1.137(b)(3).

In addition, as discussed above, the first sentence of the description filed herein includes a reference identifying the present application as a continuation of PCT/DK2005/000324. The filing of a continuation application under 35 U.S.C. 111(a) is accepted as the "required reply" under 37 CFR 1.137(b) (see MPEP section 711.03(c)(II)(A)).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the international application as to the United States is appropriately granted.

CONCLUSION

The petition for revival under 37 CFR 1.137(b) is **GRANTED**.

International application PCT/DK2005/000324 is revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 12/014,844.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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4417 LANCASTER PIKE
WILMINGTON DE 19805

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DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Konstantinos Kourtakis :
Application Number: 12/014845 : ON PETITION
Filing Date: 01/16/2008 :
Attorney Docket Number: :
FC0002USCNT :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on October 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 28, 2008 for failure to timely file a response to the Notice to File Corrected Application Papers mailed on February 27, 2008, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 31, 2008.

Receipt of the substitute specification filed with the subject petition is acknowledged.

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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)).

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,858	01/16/2008	Kazutoshi IZUMI	072691	1319

7590 04/23/2010
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
MAI, ANH D

ART UNIT	PAPER NUMBER
2814	

NOTIFICATION DATE	DELIVERY MODE
04/23/2010	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.

Niomi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref: 04/22/2010 [illegible]

Credit Card Refund Total: $510.00

[illegible]

Adjustment date: 04/22/2010 [illegible]
01/16/2008 IN.EFSD [illegible]
02 FC:1111 -510.00 [illegible]

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,876	01/16/2008	Tanveer F. Syeda-Mahmood	ARC920070046US1	1350

67232 7590 04/10/2008

CANTOR COLBURN, LLP - IBM ARC DIVISION
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
VINCENT, DAVID ROBERT	

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
04/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Hartford CT 06103

In re Application of:
Tanveer F. Seyda-Mahmood et al.
Serial No.: 12/014,876
Filed: January 16, 2008
Docket: ARC920070046US1
Title: AUTOMATICALLY GENERATED ONTOLOGY BY COMBINING STRUCTURED AND/OR SEMI-STRUCTURED KNOWLEDGE SOURCES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 16, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1 – I.4, II.5.3, II.6.1, II.6.2, II.6.5 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II5.1, II.5.2, II.6.3, II.6.4 and above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item 5.1 above, under the U.S. field of search, petitioner has listed several classes and multiple subclasses within these classes as having been searched. It is noted that listing only class/subclasses searched in this manner will be taken a s representation by the petitioner that each of the patent documents classified under each class/subclass listed in section 8(A) was reviewed in its entirely for subject matter relevant to the claimed invention. Given the large number of documents covered by all of the classes and subclasses listed in the preexamination search (a search by the undersigned in the subclasses listed under class 715 and 707 yielded a total of over 180,000 patent documents), petitioner is requested to provide clarification as to whether a limited classification search was conducted, and if so, clearly indicate the limitation in the preexamination search statement by using an appropriate annotation after the class and subclass , for example, 238/6 (1954 to date) and 705/14 (text search only – see search logic).

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items II. 5.2 above, the preexamination search must be directed to the (instant) claimed invention and encompass ***all of the features*** of the claims, giving the claims the broadest reasonable interpretation.

With respect to item II.5.2 above, claim limitations some of which have been asserted as patentable features distinguishing the claimed invention from the cited prior art ("relationship references", "parent concept descriptor" , "child concept descriptor" extracting..descriptors", "validating the relationship[p" , "annotated as a direct ontology descriptor" in claim 1 ; "structured information source", "semi-structured information source" in claim 2) or any search terms covering these limitations do not appear to have been included in any of the "US Patent Collection" search and the Non-Patent literature (NPL) search. Further, the search logic does not include any variation or synonyms of keywords searched, thus the claims were not given the broadest reasonable interpretation, as required above. In order to ensure that claims are given the broadest reasonable interpretation in the patent and non-patent literature search, the following search terms are recommended: "schema mapping", "semantic", "mapping cardinality", "cluster mapping", "direct mapping", "indirect mapping", "domain ontology snippets" . An update search using combination of these search terms to cover the claimed features is expected to yield references more closely related to the claimed invention than those discussed in the Support Document. This search was recommended by a Primary Examiner of the Group Art Unit where the application is docketed. Correction is required. Petitioner should review all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure that both the "USPTO EAST" search and the NPL search cover these concepts, and update the search and/or provide any clarifications if deemed necessary.

[1] MPEP 8th ed. rev 5 August 2006

Regarding item 6.3 above, the Support Document fails to provide a detailed explanation of how ***each of the claims*** is patentable over the references cited ***with particularity required by 37 CFR 1.111(b) and (c)***.
Specifically, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited." Petitioner's "Statement of Patentability" is not clear and consistent as to how each of the claims is patentable over the references cited. In particular, petitioner asserts in section 9(C) of the Support Document that none of the references teach or suggest the limitations "identifying within the content...topic concept relationship.....ontology relationship references", " identifying within the content...concept descriptor relationship reference...ontology relationship references", "analyzing the ontology relationship references" and "validating the relationship" (although not specifically identified, these limitations are r4cited in claim1) , while in section 9(B) of the support document, petitioner appears to indicate that the Godden reference discloses the limitations "identifying within the content...topic concept relationship.....ontology relationship references", " identifying within the content...concept descriptor relationship reference...ontology relationship references", "analyzing the ontology relationship references" and the Paik reference discloses "validating the relationship" as recited in claim1. Thus petitioner has not clearly pointed out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited as required by 37 CFR 1.111(b) and (c). Correction and/or clarification is required.

Further, regarding item 6.3 above, the support document does not address the patentability of dependent claim 2. Petitioner is required to clearly point out why claim 2 is separately patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c) or provide a statement that claim 2 does not recite any features that would define over the references if claim 1 was found to be unpatentable.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in each of the independent claims***. It is noted that Petitioner appears to assert a plurality of utility by merely repeating individual limitations recited in claim 1. While the individual statements of utility may sufficiently convey the utility for each respective claim limitation, such statements do not appear to clearly convey the ***utility of the invention as defined*** in independent claim 1 ***as a whole***.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, Technology Center 2100 can be reached at (571)272-4210.

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/014,876	01/16/2008	Tanveer F. Syeda-Mahmood	ARC920070046US1	1350

67232 7590 05/19/2008

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20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER
VINCENT, DAVID ROBERT

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
05/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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20 Church Street
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Hartford CT 06103

In re Application of:
Tanveer F. Seyda-Mahmood et al.
Serial No.: 12/014,876
Filed: January 16, 2008
Docket: ARC920070046US1
Title: AUTOMATICALLY GENERATED ONTOLOGY BY COMBINING STRUCTURED AND/OR SEMI-STRUCTURED KNOWLEDGE SOURCES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on May 2, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d), and the Supplemental Information Disclosure Statement filed therewith.
The original petition, submitted on January 16, 2008 was dismissed in the decision mailed on April 10, 2008.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571)272-4210.

/Kakali Chaki/

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MICHAEL I. WOLFSON
GREENBERG TRAURIG LLP
200 PARK AVENUE, 34TH FL
NEW YORK, NY 10166

COPY MAILED

MAY 21 2008

OFFICE OF PETITIONS

In re Application of :
ROSENZWEIG, Maximilian et al. :
Application No. 12/014,898 : DECISION ON PETITION
Filed: January 16, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **EURO-275D (086084.016208)** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 07, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Maximilian Rosenzweig attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1792 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP STAMFORD
FINANCIAL CENTRE , SUITE 304A
695 EAST MAIN STREET
STAMFORD CT 06901-2138

MAILED

SEP 30 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Rosenweig et al. :
Application No. 12/014,898 :
Filed: January 16, 2008 :
Attorney Docket No. EURO-275D :
(117990.16208) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 4, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3723 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

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BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Application of :

Andre Lavoie :
Application No. 12/014,957 : DECISION ON PETITION
Filed: January 16, 2008 : TO WITHDRAW
Attorney Docket No. 15655-9 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Sandra Beasuchesne on behalf of all attorneys of record who are associated with Customer No. 01059.

All attorneys/agents associated with the Customer No. 01059 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee of record "Camivan Inc." at the address list listed in the request.

There is no outstanding Office that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: CAMIVAN INC.
533 avenue de la Montagne
Shawinigan, Quebec G9N 0A3

cc: Sandra Beasuchesne
600 boul de Maisonneuve Quest, Suite 2800
Montreal Quebec H3A 3J2

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UNITED STATES DEPARTMENT OF COMMERCE
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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

Applicant	: Jeffrey M. Kaiser	: DECISION ON REQUEST FOR
Patent Number	: 7606652	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/015,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WARF/BHGL
P.O. BOX 10395
CHCAGO IL 60610

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Application of :
Pietro Filippo ADAMO :
Application No. 12/015,025 : DECISION ON PETITION
Filed: January 16, 2008 : TO WITHDRAW
Attorney Docket No. 12854-62 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 2, 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 K. Shannon Mrksich 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. The address associated with the Customer Number in the Request is the address to be used for correspondence only.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 07/30/2010

Applicant	: Loic Joet	: DECISION ON REQUEST FOR
Patent Number	: 7652613	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 12/015,039	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **37** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LARRY E. GEE, SR.
10147 S. WALLACE STREET
CHICAGO IL 60628

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Larry E. GEE, SR.	:	
Application No. 12/015,094	:	DECISION ON PETITION
Filed: January 16, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 16, 2009. Accordingly, the date of abandonment of this application is March 17, 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/015,092	01/16/2008	JEAN-FRANCOIS TANGUAY	765/14421.11

CONFIRMATION NO. 1743

CONVERSION REQUEST

AIR MAIL
25545
GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, QC H3A 3H3
CANADA

Date Mailed: 05/13/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/01/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,816.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jan-09

GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN STREET, SUITE 2600
OTTAWA ON K1P 1C3
CANADA

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JAN 12 2009

OFFICE OF PETITIONS

In re Application of	:
Paas, Fomitchev, and Lacey	: DECISION ACCORDING STATUS
Application Number: 12/015101	: UNDER 37 CFR 1.47(a)
Filing Date: 01/16/2008	:
Attorney Docket Number:	:
0896574US	:

This is in response to the petition under 37 CFR 1.47(a) filed on December 15, 2008.

The petition is **GRANTED**.

Petitioners have shown, via the declaration of Mark Springings, that a copy of the application was sent to the non-signing inventors, Julian Paas and Jon-David Lacey on January 17, 2008. Additional letters were sent on March 26, 2008 and June 4, 2008 asking the non-signing inventors to sign the declaration naming them as a joint inventor along with Mikhail Fomitchev. However, no signed declarations were received from the non-signing inventors.

As such, the showing of record is that the non-signing inventors have constructively refused to join in the filing of the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The petition fee of $200.00 will be charged to counsel's deposit account in accordance with the fee authorization contained in the Electronic Acknowledgement Receipt filed on January 16, 2008.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DRW Jan-09

Julian Paas
835 Bexhill Road
Mississauga ON L5H 3L2
CANADA

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JAN 12 2009

OFFICE OF PETITIONS

In re Application of
Paas et al.
Application No. 12/015,101
Filed: January 16, 2008
For: SYSTEM AND METHOD OF NAVIGATING GRAPHICAL USER INTERFACE ELEMENTS

Dear Mr. Paas:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN ST, SUITE 2600
OTTAWA ON K1P 1C3
CANADA

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DRW Jan-09

Jon-David Lacey
84 Rushingbrook Drive
Richmond Hill, ON L4S 1X4
CANADA

COPY MAILED

JAN 12 2009

OFFICE OF PETITIONS

In re Application of
Paas et al.
Application No. 12/015,101
Filed: January 16, 2008
For: SYSTEM AND METHOD OF NAVIGATING GRAPHICAL USER INTERFACE ELEMENTS

Dear Mr. Lacey:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN ST, SUITE 2600
OTTAWA ON K1P 1C3
CANADA

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.
12/015,118	01/16/2008	Jean-Philippe GUEX	P33793	1786

7055 7590 07/16/2010

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
GURARI, EREZ	

ART UNIT	PAPER NUMBER
3618	

NOTIFICATION DATE	DELIVERY MODE
07/16/2010	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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JUL 15 2010

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of :
Jean-Philippe Guex et al. :
Application No. 12/015,118 :
Filed: January 16, 2008 :
For: GLIDING BOARD WITH RIGIDIFYING INSERT AND METHOD OF MANUFACTURE :

DECISION ON PETITION REGARDING REQUEST TO WITHDRAWAL FINALITY UNDER 37 CFR §1.181

This is a decision on applicants' petition under 37 CFR 1.181 filed May 5, 2010 and supplemented on May 26, 2010 requesting withdrawal of the finality of the Office action mailed February 5, 2010.

The petition is **GRANTED.**

Petitioner argues that the rejection of claims 1, 9 and 22 under 35 USC 102(b) over Holmberg et al. was not necessitated by amendment and thus requests withdrawal of the rejection as being premature.

The file record reveals that in a non-final Office action mailed on September 17, 2009, claims 1 and 9 were rejected under 35 USC 102(b) as being anticipated by Parmentier, and claim 22 was rejected under 35 USC 103(a) as being unpatentable over Parmentier in view of Ishida. In response to the non-final Office action, applicant amended claim 22 to replace the word "an" with an "a"; claims 1 and 9 were not amended. Subsequently, the examiner issues a final Office action rejecting claims 1, 9 and 22 over newly cited prior art (i.e., Holmberg).

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

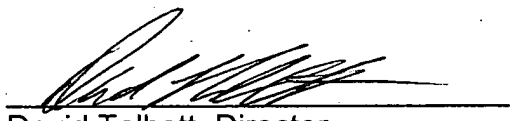
The rejection of claims 1 an 9 in the final Office action were not necessitated by amendment; accordingly, the finality of the February 5, 2010 Office action was premature. A review of the file record also indicates that in the Office action mailed

July 9, 2010, the examiner has also withdrawn the finality of the February 5, 2010 Office action.

The application will be returned to the examiner's rejected docket awaiting a response to the July 9, 2010 Office action.

Summary: The petition is **GRANTED.**

Questions concerning this decision should be referred to Teri Luu, Quality Assurance Specialist, at (571) 272-7045.



David Talbott, Director
Patent Technology Center 3600
Telephone No.: (571)-272-5150

tl: 07/8/10

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/015,131	01/16/2008	Tetsuya Miyazaki	320782US26	1806

7590 05/11/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
RODRIGUEZ, PAMELA	

ART UNIT	PAPER NUMBER
3657	

NOTIFICATION DATE	DELIVERY MODE
05/11/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 05/07/2009 BPOWELL
01717/2008 INTEFSW 00000947 12015131
02 FC:1111 -510.00 OP

Adjustment date: 05/07/2009 BPOWELL
01717/2008 INTEFSW 00000947 12015131
02 FC:1111 -510.00 OP

Refund Ref:
05/07/2009 0030069834

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXX1002

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ALEXANDRIA VA 22313-1404

COPY MAILED

APR 07 2009

OFFICE OF PETITIONS

Applicant: Baltzer
Appl. No.: 12/015,161
Filing Date: January 16, 2008
Title: CATALYTICALLY ACTIVE PEPTIDES
Attorney Docket No.: 1004080-000182
Pub. No.: 2008/0177032 A1
Pub. Date: July 24, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 23, 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.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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03/13/2008

IRA M. TURNER
CANTOR COLBURN LLP-IBM POUGHKEEPSIE
20 CHURCH STREET
22nd FLOOR
HARTFORD CT 06103-3207

MAILED

MAR 14 2008

Technology Center 2100

In re Application of:
Georg W. Bosch, et al.
Serial No.: 12/015,165
Filed: January, 16, 2008
Docket: DE920070068US1
Title: AUTONOMOUS MANAGEMENT OF SYSTEM THROUGHPUT

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 16, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.1, II.5.3, II.6.1, II.6.4, and II.6.6 above are met. However, the petition fails to comply with conditions II.5.2, II.6.2, II.6.3 and II.6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and item II.5.2 above, the pre-examination search must be directed to the (instant) claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation. With respect to the USPTO Database Search in section (A) of the Pre-examination Search Document, the text search should cover individual features of the by themselves as well as combination of features.

(1) Subclasses 102-105 and 107 of Class 718 appear to only have been searched broadly for features relating to "service class" and "velocity. This search does not appear to be commensurate with the scope of the claims from the broadest claim to the narrowest claim. For example, with respect to claim 1 the search fails to specify the different types of velocity used adjust resource access. Further, the elements of claims 2-5 do not appear to have been addressed at all.

(2) The instant application is properly classified in class 718 subclass 100. A search in this area is required.

(3) Based upon the claimed subject matter of the instant application, a search in the following class and subclasses is recommended in order to provide full coverage of where the most pertinent references are most likely to be found:

Class 709 subclasses 223-224, 226 which related to computer network monitoring/managing and a computer net work resource allocating.

(4) Appropriate term, Boolean operators, truncations, and proximities if applicable for the particular databases should be used as part of the text search for US and foreign documents as well as for non-patent literature. It is noted that no synonyms were included in the text search for US and foreign patent documents.

(5) If claims are given their broadest reasonable interpretation, the subject matter encompassed therein would as indicated above, include areas other than class 718. Therefore, Applicant should consider including a text search that is not limited by class and subclass in the search for US patent documents.

Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

[1] MPEP 8th ed. rev 5 August 2006

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item II6.2 above the accelerated examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. Section 9(B) of the Accelerated Examination support Document fails to discuss US 6,760,910, EP 0725339A2, and EP 126039B1. Petitioner notes that the disclosure of these references are identical or virtually identical to other references discussed in the Accelerated Examination support Document. Designation of the references as virtually identical implies that there is a difference in the disclosures. Further, a review of US 6,393,455 and US 6,760,910, reveals that the patents are not identical. Therefore, passages identified in US 6,393,455, US 6,859,926, and US 7,051,188 for limitations in the claims will not correspond to passages and possibly to disclosures in US 6,760,910, EP 0725339A2, and EP 126039B1. Clarification is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item II.6.3 above the accelerated examination support document must include a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c). Section 9(C) fails to provide a detailed discussion of how claims are patentable over EP 0725339A2. In addition, for each patent addressed, the section provides a discussion of the patentable distinction of the invention in general. However, no detailed discussion of the patentability of each claim is provided.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document identifies Figure 3 as providing support under 35 U.S.C. 112, first paragraph, but fails to identify support for each claim limitation. Clarification and identification of support is required for each claim in is required.

DECISION

For the above-stated reasons, the petition is **Dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed Gail Hayes, Quality Assurance Specialist, at (571) 272-3591. If attempts to reach the undersigned are unsuccessful, Vincent Trans, Quality Assurance Specialist, can be reached at (571)272-3613.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/015,165	01/16/2008	Georg W. Bosch	DE920070068US1	1857

46429 7590 06/26/2008

CANTOR COLBURN LLP-IBM POUGHKEEPSIE
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
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ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
06/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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06/25/2008

Ira Turner
20 Church Street, 22nd Floor
Hartford, CT 06103

In re Application of:
Georg W. Bosch et al.
Serial No.: 12/015165
Filed: January 16, 2008
Docket: DE920070068US1
Title: AUTONOMOUS MANAGEMENT OF SYSTEM THROUGHPUT

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 14, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I1-I4, II1-II4, II5.1-II5.3, and II.6.1-II6.6 above are met. Therefore, the petition meets the required conditions to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

DECISION

For the above-stated reasons, the petition is **Granted**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply

within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed Gail Hayes, Quality Assurance Specialist, at (571) 272-3591.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY NY 12203

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APR 24 2009

OFFICE OF PETITIONS

Applicant: Guala
Appl. No.: 12/015,170
Filing Date: January 16, 2008
Title: ONE-WAY VALVE FOR MEDICAL INFUSION LINES AND THE LIKE
Attorney Docket: 2177.122 (BUS8383-FB)
Pub. No.: US 2008/0169444 A1
Pub. Date: July 17, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), and request for a corrected Notice of Publication, received on August 26, 2008, for the above-identified application.

The request for a corrected patent application publication is DISMISSED.

The request for a corrected Notice of Publication is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains an error on the front page of the publication, the official filing receipt, and the Published Application, wherein the address 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 error noted by requestor with respect to the address is not an Office error. The address used by the Office was the address associated with the customer number provided by applicant's representative on the Application Data Sheet (ADS)

[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 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 August 26, 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.

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 subjects. See 37 CFR 1.4(c)

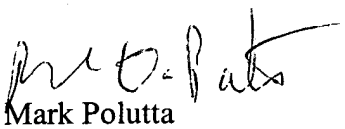
Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication 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.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Erich BECKER	: DECISION ON REQUEST FOR
Patent Number	: 7637570	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/015,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **16** 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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STEVEN J. CAHILL/ ALTERA CORP.
P.O. Box 779
MENLO PARK, CA 94026-0779

Mail Date: 04/21/2010

Applicant	: Ali Burney	: DECISION ON REQUEST FOR
Patent Number	: 7639054	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 12/015,223	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROSSI, KIMMS & MCdOWELL LLP
20609 GORDON PARK SQUARE, SUITE 150
ASHBURN VA 20147

COPY MAILED
JAN 21 2009

In re Application of
Tomoyuki Kudoh
Application No. 12/015,228
Filed: January 16, 2008
Attorney Docket No. ANO:650

: 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 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 31, 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 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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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.*

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	12015253	Confirmation Number	2036	Filing Date	2008-01-16
Attorney Docket Number (optional)	2/89	Art Unit	3747	Examiner	Not Yet Assigned
First Named Inventor	Robert R. Penman				
Title of Invention	FUEL REFORMING PROCESS FOR INTERNAL COMBUSTION ENGINES				

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
Robert	R.	Penman	

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	/s/Mark S. Leonardo/	Date (YYYY-MM-DD)	2008-02-29
Name	Mark S. Leonardo	Registration Number	41433

PTO/SB/130 (03-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Application of
Robert R. Penman

Application No. 12015253
Filed: January 16,2008

Attorney Docket No. 2/89

: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 29-FEB-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Arend et al.	:	DECISION ON PETITION
Application No. 12/015,275	:	TO WITHDRAW
Filed: January 16, 2008	:	FROM RECORD
Attorney Docket No. 310477-1062	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 14, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Antoinette F. Konski on behalf of all attorneys of record associated with Customer Number 38706. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 07/23/2010

Applicant	: Giuseppe Cusmai	: DECISION ON REQUEST FOR
Patent Number	: 7649424	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 12/015,281	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **52** 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

25 AUG 2009

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Miller, Matthias & Hull
One North Franklin Street
Suite 2350
Chicago, IL 60606

In re Application of :
KOHNEN, Wilfried. :
Application No.: 12/015,282 :
Filed: January 16, 2008 : DECISION ON PETITION
Attorney Docket No.: 50011/E10372US :
For: METHOD FOR EXTRACTING PLANTS OF THE GENUS PELARGONIUM, EXTRACT PRODUCED ACCORDING TO SAID METHOD, AND USE THEREOF :

This decision is in response to applicant's "Petition under 37 CFR 1.78(a)(3) to Accept Delayed Submission of Priority Claim in International Application (MPEP §201.11(a))" dated June 24, 2009, requesting acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 365(c) to international application PCT/DE2006/001260.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Here, the amendment submitted with the present petition indicates that "this application is a national stage filing of International Application No. PCT/DE2006/001260." The present nonprovisional application is considered a filing under 35 U.S.C. 111, as explained below. The amendment fails to state the proper relationship of the present application to International Application No. PCT/DE2006/001260 filed July 19, 2006. (See 37 CFR 1.78(a)(2)(i)). Therefore, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

It is noted that any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP (Eighth edition Rev. 5) states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

During the electronic filing process on January 16, 2008, applicant selected the application identifier "Utility under 35 USC, 111(a)," rather than the separate application identifier specifically applicable to national stage applications filed under 35 U.S.C. 371. This is evident from the Electronic Acknowledgment Receipt generated at the time of filing, which identifies the application as a "Utility under 35 USC 111(a)" application rather than a U.S. national stage application filed under 35 U.S.C. 371. Therefore, the application was properly treated as being filed under 35 U.S.C. 111(a).

Therefore, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5))[1] or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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[1]Applicant is advised that a supplemental ADS must be labeled as such (see 37 CFR 1.76(c)(2)) and must be signed (see 37 CFR 1.33).

By mail: Mail Stop PCT
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Bryan Lin
Legal Examiner
Office of Petitions and PCT Legal Administration

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Miller, Matthias & Hull
One North Franklin Street
Suite 2350
Chicago, IL 60606

In re Application of
KOHNEN, Wilfried.
Application No.: 12/015,282
Filed: January 16, 2008
Attorney Docket No.: 50011/E10372US
For: METHOD FOR EXTRACTING PLANTS OF THE GENUS PELARGONIUM, EXTRACT PRODUCED ACCORDING TO SAID METHOD, AND USE THEREOF

DECISION ON PETITION

This decision is issued in response to applicant's "Renewed Petition under 37 CFR 1.78(a)(3) to Accept Delayed Submission of Priority Benefit Calim (MPEP §201.11(a))" dated September 2, 2009 to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth set forth in the amendment filed concurrently with the instant petition.

The petition is GRANTED.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those application filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed with present petition, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed international application, accompanies this decision on petition.

It is noted that the present renewed petition includes a supplemental application data sheet which states that "this application is a national stage filing of International Application No. PCT/DE2006/001260 filed 19 July 2006." The present nonprovisional application is considered a filing under 35 U.S.C. 111, as explained in previous "Decision on Petition" dated 25 August 2009. Therefore, the application data sheet fails to state the proper relationship of the present application to the international application. Further, applicant is advised that a supplemental ADS must be labeled as such (see 37 CFR 1.76(c)(2)) and must be signed (see 37 CFR 1.33). Applicant should consider filing a proper supplemental application data sheet.

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin

Bryan Lin
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

AFFINITY LABS, LLC
10904 DOSWELL COVE
AUSTIN TX 787390

In re Application of:
WHITE, RUSSELL W., et al.
Serial No.: 12/015,320
Filed: January 16, 2008
Title: **METHOD FOR MANAGING MEDIA**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 24, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323) and effective August 25, 2006, the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed concurrently and electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) at least because the application was not complete upon filing (the drawings were defective and the petition was not filed concurrent with the application papers.)

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of
Rotman, et al.
Application No. 12/015,326
Filed: January 16, 2008
Attorney Docket No. 18980US02

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 11, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to several prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment does not comply with 37 CFR 1.121 or 1.52. Petitioners filed a "RESPONSE TO OFFICE ACTION" with the present petition that does not comply with 37 CFR 1.121, which states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The only mention of the requested changes with respect to priority is in the REMARKS section of the RESPONSE TO OFFICE ACTION. No specific changes to the specification are requested. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet.

Before the petition can be properly and considered and granted, petitioners must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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OFFICE OF PETITIONS

In re Application of :
Rotman, et al. :
Application No. 12/015,326 : DECISION DISMISSING PETITION
Filed: January 16, 2008 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18980US02 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to several prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 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 petition does not satisfy item (1) above.

The reference to add the prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after

the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

In addition, please correct the benefit claim to list "Abraham, et al." as the inventors of the prior-filed application. Abraham was a joint inventor of the prior-filed applications.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Rotman, et al. :
Application No. 12/015,326 : DECISION GRANTING PETITION
Filed: January 16, 2008 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18980US02 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 1, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to several prior-filed nonprovisional applications.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3662 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/015,326	01/16/2008	3662	1180	18980US02	23	3

CONFIRMATION NO. 2165

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 05/28/2010

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)

Boaz Efroni Rotman, Cupertino, CA;
Charles Abraham, Los Gatos, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CON of 10/968,345 10/19/2004 PAT 7,342,533
and is a CIP of 10/774,309 02/06/2004 PAT 7,447,253
and is a CIP of 10/926,791 08/26/2004 PAT 7,688,260
and is a CIP of 10/976,191 10/28/2004 PAT 7,327,310

Foreign Applications

If Required, Foreign Filing License Granted: 02/04/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/015,326**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR OBTAINING SATELLITE TRAJECTORY DATA AT A SATELLITE POSITIONING SYSTEM RECEIVER

Preliminary Class

342

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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