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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/312,959 | 11/05/2009 | Atsushi Matsuo | KUD-023 | 3586 |

32628 7590 02/17/2010
KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

| EXAMINER |
|---|
| LOOK, EDWARD K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3745 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/17/2010 | PAPER |

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

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

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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA VA 22314-2848

| | | |
|---|---|---|
| In re Application of | : | |
| MATSUO, ATSUSHI et al | : | DECISION ON PETITION |
| Application No. 12/312,959 | : | TO MAKE SPECIAL UNDER |
| Filed: Nov. 5, 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. KUD-023 | : | PILOT PROGRAM |
| Title: WIND TURBINE GENERATOR AND ITS CONTROL METHOD | | |

This is a decision on the petition under 37 CFR 1.102, filed December 29, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy

resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item(s) #1. In regard to item 1, petitioner should note that this application has been classified in an area (USPC 416/001) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

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

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

The application is being forwarded to the Technology Center Art Unit 3745 for action in its regular turn.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/312,959 | 11/05/2009 | Atsushi Matsuo | KUD-023 | 3586 |

32628 7590 06/04/2010
KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

| EXAMINER |
|---|
| LOOK, EDWARD K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3745 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/04/2010 | 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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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA VA 22314-2848

| | | |
|---|---|---|
| In re Application of | : | |
| MATSUO, ATSUSHI et al. | : | DECISION ON PETITION |
| Application No. 12/312,959 | : | TO MAKE SPECIAL UNDER |
| Filed: June 2, 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. KUD-023 | : | PILOT PROGRAM |
| For: WIND TURBINE GENERATOR AND ITS CONTROL METHOD | | |

This is a decision on the petition under 37 CFR 1.102, filed June 1, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a

request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

The application is being forwarded to the Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

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JAN 20 2010

**DLA PIPER LLP (US )**
**2000 UNIVERSITY AVENUE**
**EAST PALO ALTO CA 94303-2248**

| | | |
|---|---|---|
| In re Application of | : | |
| James Bowmar Rodgers et al. | : | |
| Application No. 12/313,018 | : | DECISION ON PETITION |
| Filed: November 13, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 356578-991131 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 1, 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 attesting to their age. 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 3772 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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**KLEIN, DENATALE, GOLDNER, COOPER et. al.**
**P.O. BOX 11172**
**BAKERSFIELD CA 93389-1172**

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MAR 11 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Michael Terrell, et al. | : | |
| Application No. 12/313,032 | : | DECISION ON PETITION |
| Filed: November 13, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 16717-1 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the proper certifications were not made on the PTO/SB/63 form. Box 2 was left unchecked.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Michael Terrell**
**7329 North 173rd Avenue**
**Waddell, AZ 85355**

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**ALLAN ROSMAN**
**4004 SCHUYLKILL DR.**
**CALABASAS CA 91302**

COPY MAILED
JAN 27 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Rosman, Allan | : | |
| Application No. 12/313,046 | : | ON PETITION |
| Filed: November 17, 2008 | : | |
| Title: Hybrid Hydraulic Drive System for All Terrestrial Vehicles, with the Hydraulic Accumulator as the Vehicle Chassis | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 a statement from the applicant, Allan Rosman. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3618 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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**ELIOT GERBER**
**127 DEVIN DR**
**MORAGA CA 94556**

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DEC 2 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **GERBER,** Eliot | : | |
| Application No. 12/313,090 | : | DECISION ON PETITION |
| Filed: November 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 November 17, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Eliot Gerger 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 Patent Application Processing for processing. This application will be accorded "special" status when pre-examination processing is done.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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AUG 14 2009

OFFICE OF PETITIONS

**Bernard S. Hoffman**
**10 Colgate Street**
**Port Jefferson Station, NY 11776**

| | | |
|---|---|---|
| In re Application of | : | |
| Chaim Schwimmer | : | |
| Application No. 12/313,105 | : | DECISION ON PETITION |
| Filed: November 17, 2008 | : | TO WITHDRAW |
| Attorney Docket No. SCHWIMMER.2 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2009.

The request is **APPROVED**.

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

The request was signed by Bernard S. Hoffman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Chaim Schwimmer**
**5411 14th Avenue**
**Brooklyn, NY 11219**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/313,105 | 11/17/2008 | Chaim Schwimmer | SCHWIMMER.2 |

**CONFIRMATION NO. 6127**

**POWER OF ATTORNEY NOTICE**

Bernard S. Hoffman
10 Colgate Street
Port Jefferson Station, NY 11776

*OC000000037359484*

Date Mailed: 08/14/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2009.

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

/tswilliams/

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Richard Leggio | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7651140 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/313,107 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 11/17/2008 | : 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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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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JAN 25 2010

OFFICE OF PETITIONS

In re Application of :
WEDER, DONALD E. :
Application No. 12/313,154 :
Filed: November 18, 2008 :
Attorney Docket No. 8404.476 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 12, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned as of midnight on July 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election in response to the restriction requirement, (2) the non-small entity petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571)-272-3687.

This application is being referred to Technology Center AU 3721 for appropriate action by the Examiner in the normal course of business on the reply received.

Anthony Knight
Supervisor
Office of Petitions

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**DAVIDSON, DAVIDSON & KAPPEL, LLC**
**485 7TH AVENUE**
**14TH FLOOR**
**NEW YORK NY 10018**

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MAY 2 2 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Van Quaquebeke et al. | : | |
| Application No. 12/313,179 | : | ON PETITION |
| Filed: November 17, 2008 | : | |
| Attorney Docket No. 467.1007 | : | |

This is a decision on the petition filed March 19, 2009, requesting that the above-identified application be accorded a filing date of November 17, 2008, rather than the presently accorded date of November 18, 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 November 17, 2008, pursuant to 37 CFR 1.10. While the copy of the Express Mail label No. EV 670450419 US bears a handwritten "date-in" of "11/ /08," with the actual day of the month left blank, it also includes a USPS receipt date stamp of "NOV 17, 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 November 17, 2008. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated November 17, 2008 on the cover page for the application papers. Additionally, applicant has submitted copy of the postal service sales receipt, which shows Express Mail label No. EV 670450419 US as having a receipt date of November 17, 2008.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on November 17, 2008 at 8:45 p.m. at the New York, NY USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on November 17, 2008. Accordingly, the instant application is entitled to a filing date of November 17, 2008 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Patent Application Processing (OPAP) for further **processing with a filing date of November 17, 2008, along with a corrected filing receipt.**

Thereafter, the matter will be referred to Technology Center AU 1614 for examination in due course.

Telephone inquiries concerning this matter may be directed the undersigned at (571) 272-3206. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

Liana Walsh
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/313,192 | 11/17/2008 | Ray J. Hoobler | PA4449US | 4799 |

22830 7590 02/24/2010
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

| EXAMINER |
|---|
| HOLT, ANDRIAE M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1616 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/24/2010 | PAPER |

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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|---|---|---|
| In re Application of | : | |
| Ray HOOBLER et al. | : | DECISION ON PETITION |
| Application No. 12/313192 | : | TO MAKE SPECIAL UNDER |
| Filed: November 17, 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. PA4449US | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed January 15th, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1–9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Manjunath Rao at 571-272-0939.

The application is being forwarded to the Technology Center Art Unit 1616 for action on the merits commensurate with this decision.

/Manjunath Rao/

Manjunath Rao
Supervisory Patent Examiner
Technology Center 1600

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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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1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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SEP 01 2009

OFFICE OF PETITIONS

Applicant: E.S. Henle, et al.
Appl. No.: 12/313,222
Filing Date: November 17, 2008
Title: PEAK REASSEMBLY
Attorney Docket No.: ROSA132161
Pub. No.: US 2009/0141954 A1
Pub. Date: June 4, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 17, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the name of the first inventor "Ernst S. Henle" is incorrectly spelled as Emst S. Henle".

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 spelling of the first named inventor "Ernst S. Henle" is misprinted as "Emst S. Henle" may be an Office error, but it is not a material Office error under 37 CFR 1.221. The misprinting of the inventor's name does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

The Filing Receipts mailed on December 9, 2008 and February 26, 2009, both listed the applicants as Emst S Henle. The request for a Corrected Filing Receipt received on June 10, 2009 was received after the publication, to avoid the problem in the future, Applicant's representative should make a request for a Corrected Filing Receipt before export of the application to the publisher.

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

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

**NORMAN E. LEHRER, P.C.**
**1205 NORTH KINGS HIGHWAY**
**CHERRY HILL NJ 08034**

MAILED

JUL 02 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ming Sun | : | |
| Application No. 12/313,347 | : | DECISION ON PETITION |
| Filed: November 19, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 5268-21 | : | 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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Alexandria, VA 22313-1450
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CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

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**OFFICE OF PETITIONS**

ON PETITION

In re Application of :
Kohn :
Application No. 12/313,420 :
Filed: November 19, 2008 :
Attorney Docket No. WOG 9180.0001 :
For: IMMERSIVE INTERACTIVE ENVIRONMENT FOR ASYNCHRONOUS LEARNING AND ENTERTAINMENT

This is a decision on the petition, filed February 17, 2009, requesting, in effect, partial withdrawal of the Notice to file Corrected application Papers, mailed December 12, 2008, insofar as it alleges that Figures 10 and 11 were omitted from the application filed on November 19, 2008.

The application was filed on November 19, 2008. On December 12, 2008, the Office of Patent Application Processing mailed a "Notice to File Corrected Application Papers" informing petitioner, *inter alia*, that Figures 10 and 11 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests a November 19, 2008 filing date for Figures 10 and 11, and thereby, the application as well, on the basis that the allegedly omitted drawings were filed in the Patent and Trademark Office (PTO) on November 19, 2008. In support, the petition is accompanied by two declarations of individuals who reviewed the application and attest to the fact that the allegedly omitted figures were present before the application was deposited in USPS Express Mail service.

The Office file is the official record of what was filed on November 19, 2008. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case,

the declarations supplied on February 17, 2009 were made almost 3 months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

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. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioners have provided their postcard receipt. It shows that applicant listed "DRAWINGS (24 FIGURES ON 24 SHEETS" on the postcard. However, the Office annotated the postcard. The annotation states, "The PTO did not receive the following listed item(s): 2 pages of drawings." Per MPEP 503, the postcard receipt will not serve as *prima facie* evidence of receipt of 2 pages of drawings. A review of the application file reveals that 22 pages of drawings are present.

The petition is dismissed. The $400.00 petition fee is required and will be retained.

A Request for Withdrawal as Attorney or Agent and Change of Correspondence Address was filed on February 27, 2009. After the mailing of this decision, the application will be forwarded to an appropriate deciding official within the Office of Petitions who will render a decision on the February 27, 2009 petition. Then the application will be returned to the Office of Patent Application Processing for further processing with a filing date of February 2, 2007. Figures 10 and 11, submitted with the instant petition, will not be considered part of the application filed on November 19, 2008. A Technology Center SPRE will decide the petition to expunge filed on February 27, 2009.

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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**CHERNOFF, VILHAUER MCCLUNG & STENZEL, LLP**
**601 SW SECOND AVENUE**
**SUITE 1600**
**PORTLAND, OR 97204-3157**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Arthur J. Kohn | : | DECISION ON PETITION |
| Application No. 12/313,420 | : | TO WITHDRAW |
| Filed: November 19, 2008 | : | FROM RECORD |
| Attorney Docket No. PLF306 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2009.

The request is **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 William O. Geny on behalf of all attorneys of record who are associated with Customer No. 00152.

All attorneys/agents associated with Customer Number 00152 have been withdrawn. Currently, a new attorney of record has been appointed by applicant as of June 17, 2009.

All future correspondence will be directed to the address indicated below.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Kolisch Hartwell, P.C.
200 Pacific Building
520 SW Yamhill Street
Portland OR 97204

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601 SW SECOND AVENUE
PORTLAND OR 97204-3157

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of
Kohn
Application No. 12/313,420
Filed: November 19, 2008
Attorney Docket No. WOG 9180.0001
For: IMMERSIVE INTERACTIVE ENVIRONMENT FOR ASYNCHRONOUS LEARNING AND ENTERTAINMENT

CORRECTED DECISION ON PETITION

This is a corrected decision on the petition, filed February 17, 2009, requesting, in effect, partial withdrawal of the Notice to file Corrected application Papers, mailed December 12, 2008, insofar as it alleges that Figures 10 and 11 were omitted from the application filed on November 19, 2008. The petition will be treated under 37 CFR 1.53(e).

The March 16, 2009 decision on petition is vacated and corrected by the present corrected decision on petition. The sole reason for the corrected decision on petition is that the last paragraph of the prior decision contained a typographical error with respect to the filing date of the application.

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

The application was filed on November 19, 2008. On December 12, 2008, the Office of Patent Application Processing mailed a "Notice to File Corrected Application Papers" informing petitioner, *inter alia*, that Figures 10 and 11 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests a November 19, 2008 filing date for Figures 10 and 11, and thereby, the application as well, on the basis that the allegedly omitted drawings were filed in the Patent and Trademark Office (PTO) on November 19, 2008. In support, the petition is accompanied by two declarations of individuals who reviewed the application and attest to the fact that the allegedly omitted figures were present before the application was deposited in USPS Express Mail service.

The Office file is the official record of what was filed on November 19, 2008. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declarations supplied on February 17, 2009 were made almost 3 months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

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. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioners have provided their postcard receipt. It shows that applicant listed "DRAWINGS (24 FIGURES ON 24 SHEETS" on the postcard. However, the Office annotated the postcard. The annotation states, "The PTO did not receive the following listed item(s): 2 pages of drawings." Per MPEP 503, the postcard receipt will not serve as *prima facie* evidence of receipt of 2 pages of drawings. A review of the application file reveals that 22 pages of drawings are present.

The petition is dismissed. The $400.00 petition fee is required and will be retained.

After the mailing of this decision, the application will be returned to the Office of Patent Application Processing for further processing with a filing date of **November 19, 2008**. Figures 10 and 11, submitted with the instant petition, will not be considered part of the application filed on November 19, 2008. A Technology Center SPRE will decide the petition to expunge filed on February 27, 2009.

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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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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APR 23 2010

OFFICE OF PETITIONS

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|---|---|
| In re Application of | : |
| Varadi, Medine, Puigbo, and | : DECISION REFUSING STATUS |
| Vazquez | : UNDER 37 CFR 1.47(a) |
| Application Number: 12/313431 | : |
| Filing Date: 11/20/2008 | : |
| Attorney Docket Number: 08-764 | : |

This is a decision in response to the petition under 37 CFR 1.47(a) filed on February 11, 2009.

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 November 20, 2008, without an executed oath or declaration. Accordingly, on December 12, 2008, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed declaration and a surcharge for its late filing.

In response, on February 11, 2009, the present petition was filed, along with the surcharge. A declaration naming Tom Varadi, Marie-Ceilie Medine, Arturo Ramon Puigbo, and Ramiro G.

Vazquez, signed by joint inventors Varadi, Medine, and Puigbo on behalf of themselves and non-signing joint inventor Vazquez.[1] Petitioners assert, *inter alia*, that a copy of the declaration and an assignment were sent to Vazquez, 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 inventors.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that a copy of the application as filed (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.[2]

MPEP 409.03(c)(II) states that a refusal by an inventor to sign and oath or declaration when the inventor has not been presented with the application papers does not itself suggest that 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 non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application

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[1] It is noted that the ADS filed on November 20, 2008 lists the last name of the fourth named inventor as "Vazauez," while his name is listed on the declaration as "Vazquez." As the oath or declaration under 37 CFR 1.63 and 1.67 governs inconsistencies, the name has been corrected to -Vazquez-- in Office records. See 37 CFR 1.76(d)(3).

[2] MPEP 409.03(d).

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.

In regards to item (2), above, the declaration filed with the petition does not meet the requirements of 37 CFR 1.63 because it contains uninitialed/undated alterations.[3] Specifically, there are uninitialed/undated alterations in the signature block for joint inventor Varadi.

A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the inventor to whom the corrections pertain (*i.e.*, joint inventor Varadi) must be provided with any renewed petition.

The $200.00 petition fee will be charged in accordance with the authorization provided in the fee transmittal filed with the original application papers.

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

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[3] See 37 CFR 1.52(c).

Correspondence may also be filed via the USPTO's Electronic Filing System (EFS-Web).

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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NANCY A. PAPPAS
19219 CINNAMON RIDGE WAY
TAMPA, FL 33647

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Simon Srybnik, et al. | : | |
| Application No. 12/313,436 | : | DECISION ON PETITION |
| Filed: November 20, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. SRY-6 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 20, 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 Simon Srybnik. 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 further processing. This application will be accorded "special" status once pre-examination processing is complete.

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

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Alexandria, VA 22313-1450
www.uspto.gov

**THOMAS A. WOOTTON**
**HONIGMAN MILLER SCHWARTZ & COHN LLP**
**444 WEST MICHIGAN AVENUNE**
**KALAMAZOO MI 49007-3714**

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| | | |
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| In re Application of | : | |
| Dr. Josef M. Miller et al. | : | |
| Application No. 12/313,527 | : | DECISION ON PETITION |
| Filed: November 21, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 219897-121187 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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 statement from a register practitioner that he has evidence that the applicant is 65 years of age or older as required under M.P.E.P. § 708.02. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Newton Edwards at 571-272-6052.

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 for action on the merits commensurate with this decision.

David Buczo
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Thomas M. Galgano
20 W. Park Avenue
Suite 204
Long Beach NY 11561

5/20/09

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|---|---|---|
| In re Application of | : | |
| LEE, DAL HO | : | DECISION ON REQUEST TO |
| Application No. 12/313,591 | : | PARTICIPATE IN PATENT |
| Filed: Nov. 21, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 1859-7 | : | PILOT PROGRAM AND PETITION |
| For: PIEZOTOME FOR MAXILLARY | : | TO MAKE SPECIAL |
| SINUS OPERATION | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed May 13, 2009 to make the above-identified application special.

The request and petition are GRANTED.

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO, 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 K/PO application with similar claims and the KIPO priority application;

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

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

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
a. Documentation of prior office action:
   i. a copy of the office action(s)just prior to the "Decision to Grant a Patent" from each of the KIPO application(s) containing the allowable/patentable claim(s) or
   ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or.
   iii. if the KIPO application is a first action allowance then no office action from the KIPO is necessary should be indicated on the request/petition form;

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

6. Applicant must submit:
a. An IDS listing the documents cited by the KIPO examiner in the KIPO office action (unless already submitted in this application)
b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

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

## CONCLUSION

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 Henry C. Yuen at 571-272-4856. All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://uspto.gov/ebc/index.html. The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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

**Heslin Rothenberg Farley & Mesiti PC**
**5 Columbia Circle**
**Albany, NY 12203**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Didier Toubia et al. | : | DECISION ON PETITION |
| Application No. 12/313,611 | : | TO MAKE SPECIAL UNDER |
| Filed: November 21, 2008 | : | 37 CFR 1.102(c)(1) |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 a statement by attorney, copies of driver's license and passport of applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

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

The application is being forwarded to the Technology Center Art Unit 3746 for action on the merits commensurate with this decision.

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**HERBERT LECKIE MITCHELL**
**656 INDEPENDENCE VALLEY DRIVE**
**GRAND JUNCTION CO 81507**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **MITCHELL,** Herbert Leckie | : | |
| Application No. 12/313,730 | : | DECISION ON PETITION |
| Filed: November 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 November 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 Herbert Leckie Mitchell 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 Patent Application Processing 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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P.O. Box 1450
Alexandria, VA 22313-1450
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RITCHISON LAW OFFICES, PC
115 EAST NINTH STREET - SUITE A
ANDERSON, IN 46016-1507

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Ray P. Thompson, et al. :
Application No. 12/313,742 :
Filed: November 24, 2008 :
Attorney Docket No. JR-2008-752 :

ON PETITION

This is a decision on the petition, filed October 9, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed December 17, 2008, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 18, 2009. A Notice of Abandonment was mailed on August 25, 2009. On October 9 2009, the present petition was filed.

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

The application is being referred to the Office of Patent Application Processing (OPAP) for review of the drawings provided October 9, 2009.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**MERONI & MERONI, P.C.**
**P. O. BOX 309**
**BARRINGTON, IL 60011**

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APR 17 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| George D. Smith | : | |
| Application No. 12/313,748 | : | ON PETITION |
| Filed: November 24, 2008 | : | |
| Attorney Docket No. 08073 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 the applicant's attorney that he is 65 years of age, and a Declaration from applicant that he is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed Alicia Kelley at 571-272-6059. 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 3725 for action on the merits commensurate with this decision.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MILBANK, TWEED, HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK, NY 10005-1413

| | | |
|---|---|---|
| In re Application of | : | |
| Anthony F. Issa, et al. | : | DECISION REFUSING STATUS |
| Application No. 12/313,792 | : | UNDER 37 CFR 1.47(a) |
| Filed: November 25, 2008 | : | |
| Attorney Docket No. 39772.00500 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed April 16, 2009.

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).

The above-identified application was filed on November 25, 2008, without an executed oath or declaration. Accordingly, on December 16, 2008, a Notice to File Missing Parts of Nonprovisional Application was mailed, 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 April 16, 2009, applicant filed, *inter alia*, a partially executed declaration and the present petition under 37 CFR 1.47(a).

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

Petitioner indicates that packages containing complete application papers were mailed by certified mail to inventor Jeffrey Messer at his last known addresses. Petitioner explains that one of the packages for Mr. Messer was returned unopened and the other package for Mr. Messer had

been signed for. It is noted that, while the one package for Mr. Messer was signed for, the signature does not indicate it was signed by Mr. Messer. Since it is unclear whether or not he received the application, it cannot be inferred that applicant is refusing to join in the application.

Moreover, the petition does not support a conclusion that a diligent effort to reach or find the inventors has been undertaken. 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). 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 reach or find the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventors could not be found or reached should be made part of the statement. The steps to locate the whereabouts of the non-singing inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

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 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.

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

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

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

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

By internet: EFS-Web[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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MILBANK, TWEED, HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK, NY 10005-1413

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AUG 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Anthony Francis Issa, et al. | : | DECISION GRANTING STATUS |
| Application No. 12/313,792 | : | UNDER 37 CFR 1.47(a) |
| Filed: November 25, 2008 | : | |
| Attorney Docket No. 39772.00500 | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 10, 2009.

The petition is **GRANTED.**

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

Petitioner has shown that the non-signing inventor, Jeffrey Messer, cannot be located to join in the filing of the above-identified application.

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

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MR. JEFFREY MESSER
131 WEST JACKSON ROAD
SAN BERNARDINO, CA 92408

MAILED

AUG 19 2009

OFFICE OF PETITIONS

In re Application of :
Anthony Francis Issa, Jeffrey Messer and :
and Tobias John Michael :
Application No. 12/313,792 :
Filed: November 25, 2008 :
For: RESONANT TRANSFORMER SYSTEMS :
AND METHODS OF USE :

LETTER

Dear Mr. Messer:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MILBANK, TWEED, HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK, NY 10005-1413

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Masahito Watanabe | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643224 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/313,808 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 11/24/2008 | : 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.

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www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Masahito Watanabe | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643219 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/313,869 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 11/24/2008 | : 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.

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ATTN: JONATHAN O. OWENS
HAVERSTOCK & OWENS LLP
162 N. WOLFE ROAD
SUNNYVALE, CA 94086

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In re Application of
Yu-Ren Chen, et al.
Application No. 12/313,874
Filed: November 24, 2008
Attorney Docket No.: DF-07801

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed July 24, 2009. A Notice of Abandonment was mailed on October 23, 2009. On October 30, 2009, 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 corrected drawings; (2) the petition fee of $810 and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed on October 30, 2009.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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**PMB 7490**
**9805 NE 116TH ST.**
**KIRKLAND WA 98034**

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JAN 07 2010

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|---|---|---|
| In re Application of<br>Christine Louise Conner<br>Application No. 12/313,967<br>Filed: November 26, 2008<br>For: MULTI-PURPOSE PADDED, LAP-SIZED, PROTECTIVE LAP COVER, TO PROTECT FROM PET SOIL, NAILS AND CLAWS, BABY SOIL, FOOD SOIL, PROVIDE LAP WARMTH, DOUBLE AS EMERGENCY PILLOW, PUSH BRAND IDENTIFICATION AND MORE, WITH STRETCHABLE FABRIC LOOP-SHAPED STRAP TO SECURE LAP COVER IN FOLDED POSITION | : | DECISION ON PETITION |

This is a decision on the petition, filed September 8, 2009, which is being treated under 37 CFR 1.181(a) to Withdraw Holding of Abandonment. This is also a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above identified application.

The petition under 37 CFR 1.181(a) is **GRANTED**.

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

The application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed December 15, 2008. A Notice of Abandonment was mailed on August 25, 2009

Petitioner asserts that the Notice dated December 15, 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.

The Office is in receipt of evidence submitted with the above petition on September 8, 2009, to support the above.

Petitioner further states that, "On Monday, August 31, I spoke with USPTO Niketa Patel at 571-272-4156 to find out why I received the abandonment notice. She faxed a copy of the Missing Parts Notice (copy included in this packet) and explained how to revive my patent."

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is hereby withdrawn and the application restored to pending status.

The petition under 37 CFR 1.137(b) is dismissed in view of the granting of the petition under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 28 2009

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**LITMAN LAW OFFICES, LTD.**
**POST OFFICE BOX 15035**
**CRYSTAL CITY STATION**
**ARLINGTON VA 22215-0035**

| | | |
|---|---|---|
| In re Application of | : | |
| Bobby J. Earls | : | |
| Application No. 12/314,048 | : | DECISION ON PETITION |
| Filed: December 3, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 31129.00 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 3, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration from applicant Bobby J. Earls that the applicant is 65 years of age or older as required under M.P.E.P. § 708.02.. Accordingly, the above-identified application has been accorded "special" status.

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

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

**JUAN CARLOS MARGUEZ**
**REED SMITH LLP**
**3110 FAIRVIEW PARK DRIVE**
**FALLS CHURCH VA 22042**

| | | |
|---|---|---|
| In re Application of | : | |
| Jae-Kab Han | : | |
| Application No. 12/314,189 | : | DECISION ON PETITION |
| Filed: December 5, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MACP.0018 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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 statement from a register practitioner that he has evidence that the applicant is 65 years of age or older as required under M.P.E.P. § 708.02. The practitioner has also submitted a Certification of Residence. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Newton Edwards at 571-272-6052.

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 3636 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jae-kab Han | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607447 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/314,189 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2008 | : 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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United States Patent and Trademark Office
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MAILED

MAY 25 2010

OFFICE OF PETITIONS

**AKERMAN SENTERFITT**
**8100 BOONE BOULEVARD**
**SUITE 700**
**VIENNA, VA 22182-2683**

| | | |
|---|---|---|
| In re Application: | : | |
| Kandekar et al. | : | |
| Application No. 12/314,193 | : | NOTICE |
| Filed: December 5, 2008 | : | |
| Attorney Docket No. 52184.218955 | : | |

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 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) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**AKERMAN SENTERFITT**
**8100 BOONE BOULEVARD**
**SUITE 700**
**VIENNA VA 22182-2683**

MAILED

JUN 14 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Curtis et al. | : | |
| Application No. 12/314,194 | : | ON PETITION |
| Filed: December 5, 2008 | : | |
| Attorney Docket No. 52184.219399 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

Joan Olszewski
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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ROYLANCE, ABRAMS, BERDO &
GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

COPY MAILED

NOV 06 2009

OFFICE OF PETITIONS

In re Application of

Patrick J. Tiberio

Application No. 12/314,248

Filed: December 5, 2008

Attorney Docket No. 54161

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 11, 2009,.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 1, 2009, after it was believed that no response to the Notice to File Missing Parts of Non-Provisional Application mailed December 29, 2008, was received. The notice set forth a shortened period for reply of two months from its mailing date. The notice required an oath or declaration to be filed and payment of the filing fee, claim fees, search fee, independent claim fees, and a surcharge for the late filing of the declaration. A Notice of Abandonment was mailed on September 4, 2009.

Petitioner states that a response to the Notice to File Missing Parts of Non-Provisional Application was filed on January 12, 2009, however, the response was not associated with application 12/314,248, but given a new application serial number—12/318,897. The papers filed January 12, 2009, and given application serial number 12/318,897, clearly indicate that the papers should be associated with application 12/314,248, although it is not clear why applicant filed a specification, claims, and drawings on January 12, 2009, as such was not required by the Notice to File Missing Parts of Non-Provisional Application. Notwithstanding, the evidence is convincing that a response to the Notice to File Missing Parts of Non-Provisional Application was timely filed on January 12, 2009, and misrouted by the USPTO. The petition is granted, accordingly.

The application fees paid January 12, 2009, that were attributed to application 12/318,897 will be transferred to application 12/314,248. Petitioner may wish to expressly abandon application 12/318,897, in due course.

The application file is being forwarded to the Office of Patent Application Processing, for further review.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/314,257 | 12/05/2008 | Joon Hui Lee | 8736.291.00 | 1948 |

30827 7590 06/30/2009
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2423 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/30/2009 | PAPER |

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

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

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McKenna, Long & Aldridge LLP
1900 K Street, NW
Washington DC 20006

In re Application of: Joon Hui LEE, et al.
Application No. 12/314,257
Filed: December 5, 2008
For: IPTV RECEIVER AND METHOD OF PROVIDING CHANNEL DETAILS INFORMATION

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

MAIL
JUN 30 2009
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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 May 12, 2009, to make the above-identified application special.

The petition is **DISMISSED.**

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);

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

(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

The request to participate in the PPH program and petition failed:

1) item (3) above, because the claims (19-40) in the US application do not sufficiently correspond in scope to the claims in the KIPO patent.

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Responses must be submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

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

Hassan Kizou
Quality Assurance Specialist, Technology Center 2400

# 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. |
|---|---|---|---|---|
| 12/314,257 | 12/05/2008 | Joon Hui Lee | 8736.291.00 | 1948 |

30827 7590 10/29/2009
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

| EXAMINER |
|---|
| KOENIG, ANDREW Y |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2423 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/29/2009 | PAPER |

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

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

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McKenna, Long & Aldridge LLP
1900 K Street, NW
Washington DC 20006

In re Application of: Joon Hui LEE, et al.
Application No. 12/314,257
Filed: December 5, 2008
For: IPTV RECEIVER AND METHOD OF PROVIDING CHANNEL DETAILS INFORMATION

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

MAILED

OCT 29 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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 May 12, 2009, and renewed on July 30, 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 KIPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);

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

(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

The first request to participate in the PPH program and petition failed item (3) above, because the claims in the US application do not sufficiently correspond in scope to the allowed claims in the KIPO application. The preliminary amendment filed, along with the renewed request on July 30, 2009 addressed this deficiency. The request to participate in the PPH program and petition are now found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

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

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

Hassan Kizou
Quality Assurance Specialist, Technology Center 2400

# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/314,266 | 12/05/2008 | Jae Hyung Song | 8736.288.00 | 3858 |

30827 7590 11/04/2009
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

| EXAMINER |
|---|
| KOENIG, ANDREW Y |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2423 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/04/2009 | PAPER |

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

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

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McKenna, Long & Aldridge LLP
1900 K Street, NW
Washington DC 20006

In re Application of: Jae Hyung Song et al.
Application No. 12314266
Filed: December 5, 2008
For: **IPTV RECEIVER AND METHOD OF DISCOVERING AN IPTV SERVICE**

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

**MAILED**

NOV 04 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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 30, 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 KIPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);

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

(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

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

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

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

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

Hassan Kizou
Quality Assurance Specialist, Technology Center 2400

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CLARK & BRODY
1700 DIAGONAL ROAD, SUTIE 510
ALEXANDRIA, VA 22314

**MAILED**

APR 29 2010

**OFFICE OF PETITIONS**

Applicant: Tijanic, et al.
Appl. No.: 12/314,282
Filing Date: December 8, 2008
Title: ANTI-CORROSION DETERGENT COMPOSITIONS AND USE OF SAME IN CLEANING AND DENTAL AND MEDICAL INSTRUMENTS
Attorney Docket: 11009-0048DV
Pub. No.: US 2009/0093389 A1
Pub. Date: April 9, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 12, 2009 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the first page of the specification wherein the cross-reference data added by the preliminary amendment filed with the application was not listed.

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 requester with respect to the preliminary amendment is <u>not</u> an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary to the specification because patent application publications are not required to include preliminary amendments. See 37 CFR 1.21(a). The failure to include an amendment is not an Office error, "See MPEP 1130(B). Besides, the front page of the publication has the divisional data, and the first page of the specification has the provisional data, thus one with ordinary skill in the art will understand the application.

---

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

Since 1997, the Office has encouraged applicants to file patent applications under 35 U.S.C. 111(a), especially continuation and divisional applications, without preliminary amendments by including any desired changes as part of the specification and drawings of the new application. In order to have a patent application publication of a continuation or divisional application contain only a desired set of claims, rather than the set of claims in the prior application, the Office strongly recommended that the continuation or divisional application be filed under 37 CFR 1.53(b) with a new specification containing only the desired set of claims.

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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AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA, VA 22182-2683

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of :
Greg Evans et al :
Application No. 12/314,289 : NOTICE
Filed: December 8, 2008 :
Attorney Docket No. 52184.219231

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

**COPY MAILED**

JUN 23 2009

**OFFICE OF PETITIONS**

In re Application of
Doyle
Application No. 12/314,292
Filed/Deposited: 8 December, 2008
Attorney Docket No. 335727US28CONT

DECISION ON PETITION

This is a decision on the petition filed on 29 May, 2009, under 37 C.F.R. §1.47.

The petition under 37 C.F.R. §1.47(b) 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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

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

Petitioner's attention is directed to the regulations at 37 C.F.R. §1.47(b) and to the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03, et seq..

*Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

***Petitioner submitted an oath/declaration signed by a representative of the averred assignee, but with no statement by that signor of authority to sign. This deficiency must be resolved on any renewed petition.***

## BACKGROUND

The record indicates:

The instant application was filed on 8 December, 2008, without, *inter alia*, a fully executed oath/declaration.

On 1 January, 2009, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required.

On 29 May, 2009, Petitioner James J. Kulbaski (Reg. No 34,648) filed a petition with, *inter alia*, the fee, an oath/declaration signed by a representative of the averred assignee (however, without a statement by the signor of authority to sign), a statement of reasonably believed to be valid/current/last known address of the non-signing inventor Philip Doyle (Mr. Doyle) and evidence of transmittal to that address of the entire application (description, claims, abstract and drawings), a statement/showing proprietary interest and irreparable harm. (*See* MPEP §409.03, and §409.03(a), et seq: "a showing of a *bona fide* attempt.")[1]

Petitioner **must** resolve these issues on any renewed petition.

*Petitioners always are reminded that for transmission by Email of any document (e.g., specification (description, claims, abstract, drawings) and oath/declaration) 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,

[1] Petitioners always are reminded to move stepwise through the requirements of a grantable petition under 37 C.F.R. §1.47(b), to wit: the petition and fee; proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage. Petitioner is reminded to be attentive to the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03, et seq. 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).)

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

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

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

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

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

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

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

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

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

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

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

**§1.2 Business to be transacted in writing.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

**COPY MAILED**

SEP 14 2009

**OFFICE OF PETITIONS**

In re Application of
Doyle
Application No. 12/314,292
Filed/Deposited: 8 December, 2008
Attorney Docket No. 335727US28CONT

DECISION ON PETITION

This is a decision on the petition filed on 19 August, 2009, under 37 C.F.R. §1.47.

The petition under 37 C.F.R. §1.47(b) is **GRANTED**.

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

*Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record indicates:

The instant application was filed on 8 December, 2008, without, *inter alia*, a fully executed oath/declaration.

On 1 January, 2009, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required.

On 29 May, 2009, Petitioner James J. Kulbaski (Reg. No 34,648) filed a petition with, *inter alia*, the fee, an oath/declaration signed by a representative of the averred assignee (however, without a statement by the signor of authority to sign), a statement of reasonably believed to be valid/current/last known address of the non-signing inventor Philip Doyle (Mr. Doyle) and evidence of transmittal to that address of the entire application (description, claims, abstract and drawings), a statement/showing proprietary interest and irreparable harm. (*See* MPEP §409.03, and §409.03(a), et seq.: "a showing of a *bona fide* attempt.")[1] The petition was dismissed on 23 June, 2009.

On 19 August, 2009, Petitioner sought to overcome the deficiency of the earlier petition and submitted the statement of authority to sign. Thus, Petitioner made a showing consistent with the regulations at 37 C.F.R. §1.47(b) and the guidance in the Commentary at MPEP §409.03(a), et seq., and that following receipt of the entire application (description, claims, abstract, drawings) the non-signing inventor has failed and so constructively refused to sign/join in the oath/declaration and the application.

*Petitioners always are reminded that for transmission by Email of any document (e.g., specification (description, claims, abstract, drawings) and oath/declaration) 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.[2]

---

[1] Petitioners always are reminded to move stepwise through the requirements of a grantable petition under 37 C.F.R. §1.47(b), to wit: the petition and fee; proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage. Petitioner is reminded to be attentive to the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03, et seq. 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).)

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

## CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §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.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing 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[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

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

PHILIP DOYLE
11785 ELLICE STREET
MALIBU, CA 90265

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SEP 14 2009

**OFFICE OF PETITIONS**

In re Application of
Doyle
Application No. 12/314,292
Filed/Deposited: 8 December, 2008
Attorney Docket No. 335727US28CONT

COMMUNICATION

Dear Philip Doyle:

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

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

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

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

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

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/JJG

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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. |
|---|---|---|---|---|
| 12/314,308 | 12/08/2008 | Ko Yoshida | 139720 | 1541 |

7590 11/18/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| PONOMARENKO, NICHOLAS |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2839 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/18/2009 | 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: 11/19/2009 NFARMER 0015171603
DA#:150451 Name/Number:12314308
FC: 9204 $540.00 CR

Adjustment date: 11/19/2009 NFARMER
12709/2008 SZEWDIE1 00000051 12314308
02 FC:1111 -540.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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**AKERMAN SENTERFITT**
**8100 BOONE BOULEVARD, SUITE 700**
**VIENNA, VA 22182-2683**

**MAILED**

JUN 15 2010

**OFFICE OF PETITIONS**

In re Application of :
**Greg EVANS**, et *al.* :
Application No. 12/314,324 : NOTICE UNDER 37 CFR 1.28(C)
Filed: December 08, 2008 :
Attorney Docket No. **52184.219230** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

05 JUN 2009

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

Arent Fox LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

| | | |
|---|---|---|
| In re Application of<br>KOYOMA et al.<br>U.S. Application No. 12/314,331<br>PCT No.: PCT/JP2007/057984<br>Int. Filing Date: 11 April 2007<br>Priority Date: 15 June 2006<br>Attorney Docket No.: 107348-00724<br>For: OIL SENSOR PLACEMENT STRUCTURE IN ENGINE | : | DECISION |

This decision is issued in response to applicants' "Request for Conversion of Utility Application to National Stage Application Filed Under 35 U.S.C. 371 and 37 CFR 1.495" filed 23 April 2009, which is being treated as a petition under 37 CFR 1.181. The initial papers filed 08 December 2008 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, the application will be converted to a national stage filing of PCT/JP2007/057984.

## BACKGROUND

On 11 April 2007, applicants filed international application PCT/JP2007/057984 which claimed a priority date of 15 June 2006. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 21 December 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 December 2008.

On 08 December 2008, applicants filed the present application. The application papers filed therewith included: a preliminary amendment, which included an authorization to charge deposit account; an executed declaration; 13 pages of specification, 2 pages of claims, and an abstract; and 9 drawing sheets. None of the papers referred to 35 U.S.C. 371 or "national stage." The application was processed as a filing under 35 U.S.C. 111(a).

On 23 April 2009, applicants filed "Request for Conversion of Utility Application to National Stage Application Filed Under 35 U.S.C. 371 and 37 CFR 1.495."

## DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO 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:

> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

In the declaration filed 08 December 2008, the applicant clearly identifies in the declaration the specification to which it is directed by referring to international application PCT/JP2007/057984. This is a clear indication that the papers were filed under 35 U.S.C. 371. Therefore, the application papers filed 08 December 2008 should have been processed under 35 U.S.C. 371, not 35 U.S.C. 111.

Accordingly, the filing receipt issued on this application, which did not indicate filing under 35 U.S.C. 371, was in error and is hereby vacated.

## CONCLUSION

For the reasons above, the application will be converted from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371.

The "Notice to File Missing Parts of Nonprovisional Application filed under 37 CFR 1.53b" dated 25 February 2009 is hereby VACATED.

This application is being forwarded to United States Designated/Elected Office for further processing and for review of the national stage papers submitted 08 December 2008

and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) and Official Filing Receipt.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
An et al. : DECISION ON PETITION
Application No. 12/314,335 :
Filed: December 8, 2008 :
Attorney Docket No. 1594.1860 :

This is a decision on the petition filed January 12, 2009, requesting that the above-identified application be accorded a filing date of December 8, 2008.

On December 8, 2008, applicants deposited the above-identified application. On January 6, 2009, the Office mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items.

In response, on January 12, 2009, applicants submitted the present petition, a $400.00 petition fee, 7 sheets, and a copy of a date-stamped return receipt postcard. The postcard acknowledged receipt of "Drawings (7pp.) (Figs. 1, 2, 3, 4, 5, 6, 7)" in the USPTO on December 8, 2008.

Upon review of the record, the 7 sheets of drawings, deposited on December 8, 2008, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 8, 2008, included 7 sheets of drawings (Figs. 1, 2, 3, 4, 5, 6, 7), which were subsequently misplaced in the USPTO. See MPEP 503. Therefore, the application, including the 7 sheets of drawings, was complete on filing and will be granted a filing date December 8, 2008.

Accordingly, the petition is **granted**. The Notice of Incomplete Nonprovisional Application was sent in error and is hereby withdrawn.

The application is being referred to the Office of Patent Application Processing to accord the above-identified application a filing date of **December 8, 2008**, using the 7 sheets of drawings submitted with the petition on January 12, 2009, and to mail a corrected filing receipt.

The $400.00 petition fee is unnecessary and will be refunded in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/314,371 | 12/09/2008 | John Maldonado | RRS1 | 3648 |

7590 07/09/2010

IPUSA, P.L.L.C
1054 31ST STREET, N.W.
Suite 400
Washington, DC 20007

| EXAMINER |
|---|
| DINH, TIEN QUANG |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3644 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/09/2010 | 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.

Mimi Farmer

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

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

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

**MAILED**

MAY 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of: | : | |
| Katz et al. | : | |
| Application No. 12/314387 | : | DECISION GRANTING |
| Filing or 371(c) Date: 12/09/2008 | : | PETITION UNDER |
| Title of Invention: | : | 37 CFR 1.47(a) |
| EGG PROTEIN PRODUCT | : | |

This is in response to a Petition Pursuant to 37 CFR § 1.47(a), filed April 3, 2009, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Michael Katz, refuses to join in the above-identified application.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL KATZ
C/O/BARRISTERS AND SOLICITORS
500-2220-12TH AVENUE
REGINA, SASKATCHEWAN
S4P 3B2
20035 SW BADGER RD.
BEND, OR 97702

MAILED

MAY 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of: | : | |
| Katz et al. | : | |
| Application No. 12/314387 | : | LETTER |
| Filing or 371(c) Date: 12/09/2008 | : | |
| Title of Invention: | : | |
| EGG PROTEIN PRODUCT | : | |

Dear Mr. Katz:

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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APR 2 0 2009

**OFFICE OF PETITIONS**

In re Application of
Nam, et al.
Application No. 12/314,419
Filed: December 10, 2008
Attorney Docket No. 041993-5454US

ON PETITION

This is in response to the "PETITION UNDER 37 C.F.R. 1.57(a) TO ACCORD FILING DATE OF DECEMBER 10, 2008," filed March 4, 2009, requesting that the above-referenced application be accorded a filing date of December 10, 2008. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

The petition under 37 CFR 1.53(e)(2) is **GRANTED**.

Application papers in the above-identified application were deposited on December 10, 2008. Applicants received their postcard receipt date stamped December 10, 2008 with an annotation of "The PTO did not receive the following listed items 3 drw." On December 31, 2008, applicants filed replacement drawings, arguing first that the postcard states that the drawings were among the application papers filed on December 10, 2008 and second, stating that under 37 CFR 1.57(a) that the replacement drawings should be entered and the filing date of December 10, 2008 maintained. Applicants referenced a foreign priority claim to a Korean patent application. However, on January 5, 2009, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. On January 12, 2009, the Office mailed a filing receipt that accorded the application a December 31, 2008 filing date. In response, applicants timely filed this petition. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55 or 1.78.

Applicants' arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method claim. MPEP 601.01(f) provides that:

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

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a):

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

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

To the extent the instant petition requests a filing date of December 10, 2008 with no drawings present in the application, the petition is **GRANTED**.

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

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

- **correction of the filing date to December 10, 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 4, 2009 will be determined by the examiner.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

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**LEE & MORSE, P.C.**
**3141 FAIRVIEW PARK DRIVE**
**SUITE 500**
**FALLS CHURCH, VA 22042**

**COPY MAILED**

AUG 2 4 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Lee et al. | : | DECISION ON PETITION |
| Application No. 12/314,427 | : | TO WITHDRAW |
| Filed: December 10, 2008 | : | FROM RECORD |
| Attorney Docket No. 2557SI-001253/US/DVA | : | |

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 13, 2009.

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

A review of the file record indicates that on May 13, 2009 the power of attorney to Lee & Morse, P.C. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston VA 20195

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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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NOV 23 2009

OFFICE OF PETITIONS

Applicant: Shunsuke Uozumi, et al.
Appl. No.: 12/314,430
Filing Date: December 10, 2008
Title: NON-AQUEOUS PIGMENT INK
Attorney Docket No.: 29846U
Pub. No.: US 2009/0156733 A1
Pub. Date: June 18, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 15, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the assignee's name is incorrect.

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

The request for corrected publication, received September 15, 2009, was not timely filed under 37 CFR 1.221(b).

Moreover, the error on the front page of the publication wherein the assignee's name RISO KAGAKU CORPORATION is misprinted as RISCO KAGAKU CORPORATION may be an Office error, but it is not a material Office error under 37 CFR 1.221. Applicant should not file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130. Furthermore, the misprinting of the assignee's name does not affect the understanding of the application. The mistake does not

[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).

affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

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

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

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

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

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In re Application of
James A. Green

Application No. 12314439

Filed: December 10,2008

Attorney Docket No. 850-28

: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 06-AUG-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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**LITMAN LAW OFFICES, LTD.**
**POST OFFICE BOX 15035**
**CRYSTAL CITY STATION**
**ARLINGTON VA 22215-0035**

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MAR 25 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Claude R. Swanson, Sr. | : | |
| Application No. 12/314,505 | : | DECISION ON PETITION |
| Filed: December 11, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 31098.00 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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/she 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 3711 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

| | | |
|---|---|---|
| In re Patent No. 7,711,205 | : | |
| Issue Date: May 4, 2010 | : | |
| Application No. 12/314,680 | : | ON PETITION |
| Filed: December 15, 2008 | : | |
| Attorney Docket No. 08806.0170-03 | : | |

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 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) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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**901 NEW YORK AVENUE, NW**
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JUN 21 2010

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| | | |
|---|---|---|
| In re Patent No. 7,720,298 | : | ON PETITION |
| Issue Date: May 18, 2010 | : | |
| Application No. 12/314,681 | : | |
| Filed: December 15, 2008 | : | |
| Attorney Docket No. 08806.0170-02 | : | |

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 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) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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**901 NEW YORK AVENUE, NW**
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JUN 21 2010

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|---|---|---|
| In re Patent No. 7,711,195 | : | |
| Issue Date: May 4, 2010 | : | |
| Application No. 12/314,682 | : | ON PETITION |
| Filed: December 15, 2008 | : | |
| Attorney Docket No. 08806.0170-01 | : | |

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 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) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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**H. JAY SPIEGEL – H. JAY SPIEGEL & ASSOCIATES**
**P.O. BOX 11**
**MOUNT VERNON VA 22121**

| | | |
|---|---|---|
| In re Application of | : | |
| Kenneth HOLKO, et al | : | |
| Application No. 12/314,790 | : | DECISION ON PETITION |
| Filed: December 17, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. HOLKO-1 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 20, 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 declaration statement by Applicant Thomas D. Petersen. 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 referred to Technology Center Art Unit 3775 for action on the merits commensurate with this decision.

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

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**PATRICK R. DELANEY, ESQUIRE**
**2021 HOOVER LANE**
**ALEXANDRIA VA 22308**

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| In re Application of | : | |
| Macrae, David N. | : | DECISION ON PETITION |
| Application No. 12/314,928 | : | TO WITHDRAW |
| Filed: December 18, 2008 | : | FROM RECORD |
| Attorney Docket No. Bulletin-3 | : | |

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 8, 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 Patrick R. Delaney on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, David N. Macrae, at the address indicated below.

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: DAVID N. MACRAE
C/O STEIN, MITCHELL AND MUSE, LLP
1100 CONNECTICUT AVENUE, NW
WASHINGTON DC 20036

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SHLESINGER, ARKWRIGHT & GARVEY LLP
5845 RICHMOND HIGHWAY SUITE 415
ALEXANDRIA VA 22314

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| In re Application of | : | |
| Derek Goddard | : | |
| Application No. 12/314,929 | : | DECISION ON PETITION |
| Filed: December 18, 2008 | : | |
| Attorney Docket No. 7623-1 | : | |

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 2, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the Notice to File Missing Parts mailed January 9, 2009. This Notice set an extendable period for reply of two (2) months. No reply having been received, the application became abandoned on March 10, 2009. The Office mailed a Notice of Abandonment on September 22, 2009.

On petition, applicant asserts that he filed a reply on March 9, 2009. In support thereof, applicant has included *prima facie* evidence of its timely filing by submitting a copy of a facsimile confirmation report, dated March 9, 2009, and showing that 11 pages were received by the Office. See MPEP 503. In addition, applicant has provided a copy of a Certificate of Transmission under 37 CFR 1.8.

In view thereof, **the holding of abandonment is withdrawn.**

While applicant has not provided proof that the required fees were charged to his deposit account, Deposit Account No. 19-2105 has been charged $792, as authorized ($165 basic filing fee, $65 surcharge, $270 search fee, $110 examination fee, $182 for 7 total claims over 20).

The matter is being 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)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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**COOPER & DUNHAM, LLP**
**30 Rockefeller Plaza**
**20th Floor**
**NEW YORK NY 10112**

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MAR 12 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Saeng Hwan Kim | : | |
| Application No. 12/315,010 | : | DECISION GRANTING PETITION |
| Filed: November 26, 2008 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 79742/JPW/KK | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 12, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on March 2, 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 2816 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

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

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**Myers Dawes Andras & Sherman LLP**
**Suite 1150**
**19900 MacArthur Blvd.**
**Irvine, CA 92612**

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MAR 27 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Joseph Han | : | |
| Application No. 12/315,055 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO WITHDRAW |
| Attorney Docket No. FMI1.PAU.75 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 16, 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 Vic Y. Lin on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Joseph Han**
**3676 S. Mall Street**
**Irvine, CA 92606**

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/315,055 | 11/26/2008 | Joseph Han | FMI1.PAU.75 |

**CONFIRMATION NO. 8635**

Myers Dawes Andras & Sherman LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

**POWER OF ATTORNEY NOTICE**

*OC000000035203893*

Date Mailed: 03/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/16/2008.

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

/tswilliams/

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

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P.O. BOX 519
MURRIETA, CA 92564-0519

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| | | |
|---|---|---|
| In re Application of | : | |
| Wayne Embree | : | |
| Application No. 12/315,146 | : | DECISION ON PETITION |
| Filed: November 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 November 28, 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 further processing. This application will be accorded "special" status once pre-examination processing is complete.

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

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Dan M. De La Rosa, Esq.
Suite 24C
300 E 77th Street
New York NY 10075

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APR 23 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Anthony Viggiani | : | |
| Application No. 12/315,388 | : | DECISION ON PETITION |
| Filed: December 4, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. P-0173-US | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 16, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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**THOMAS M. FREIBURGER**
**P.O. BOX 1026**
**TIBURON CA 94920**

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of
Samuels et al
Application No. 12/315,495
Filed: December 2, 2008
Attorney Docket No. 890P

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 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 executed declaration; surcharge fee and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts mailed December 18, 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 the Office of Patent Application Processing for pre-examination processing.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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**BRADLEY ARANT BOULT CUMMINGS LLP**
**INTELLECTUAL PROPERTY DEPARTMENT**
**1819 FIFTH AVENUE NORTH**
**BIRMINGHAM AL 35203-2104**

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APR 07 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Owen et al. | : | |
| Application No. 12/315,529 | : | ON PETITION |
| Filed : December 4, 2008 | : | |
| Attorney Docket No. P097773US06NJ | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 3, 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 (PTO/SB/130 form) by the applicant that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Additionally, it is not apparent whether Nicholas J. Landau was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 1784 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OMRI M. BEHR
325 PIERSON AVENUE
EDISON, NJ 08837-3123

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Leonard Mackles | : | |
| Application No. 12/315,566 | : | DECISION ON PETITION |
| Filed: December 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 December 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 statement from applicant's representative that he is in possession of evidence of applicant's age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being referred to the Office of Patent Application Processing for further processing. This application will be accorded "special" status once pre-examination processing is complete.

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

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Krieg DeVault LLP
Suite 2800
One Indiana Square
Indianapolis IN 46204

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of
Selmin et al.
Application No. 12/315,603
Filed: December 4, 2008
Attorney Docket No. SMNA-7

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 9, 2009.

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 item(s) (1) set forth above.

The petition fee is $200.00. The Office is in receipt of $130.00. Pursuant to the general authorization provided, the $70.00 petition fee difference will be charged to deposit account 12-2424.

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 Johnson, 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 the non-signing inventor. Additionally, petitioner should state whether he has access to inventor Johnson'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? 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.

A brief search has shown that the current address of inventor Johnson may be 72635 8th Street RD Kimbolton, Ohio 43749-9734.

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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Krieg DeVault LLP
Suite 2800
One Indiana Square
Indianapolis IN 46204

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AUG 20 2009

OFFICE OF PETITIONS

In re Application of
Selmin et al.
Application No. 12/315,603
Filed: December 4, 2008
Attorney Docket No. SMNA-7

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

Papers have been filed on July 24, 2009, in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed July 14, 2009, and include a Declaration that is signed by a previously non-signing inventor, Johnson, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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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

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|---|---|---|
| In re Application of | : | |
| Hare K. Verma et al. | : | |
| Application No. 12/315,653 | : | DECISION ON PETITION |
| Filed: December 5, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 9145.0089-00 | : | 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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GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

| | | |
|---|---|---|
| In re Application of | : | |
| Hare K. Verma et al. | : | |
| Application No. 12/315,653 | : | DECISION ON PETITION |
| Filed: December 5, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 9145.0089-00 | : | 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 stated in the previous decision mailed on August 31, 2009, 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. Therefore, the request still cannot be approved at this present time.

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, 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 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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**HOVEY WILLIAMS LLP**
**10801 MASTIN BLVD., SUITE 1000**
**OVERLAND PARK KS 66210**

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FEB 06 2009

**OFFICE OF PETITIONS**

In re Application of

**ETHEL MAXINE MENEFEE**
Application No. 12/315,674
Filed: December 05, 2008
Attorney Docket No. **39986**

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 05, 2006 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 Ethel Riley birth certificate indicating that he is at least 65 years of 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 3618 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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**FINNEGAN, HENDERSON, FARABOW,**
**GARRETT & DUNNER LLP**
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**WASHINGTON DC 20001-4413**

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SEP 04 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Overby et al. | : | DECISION ON PETITION |
| Application No. 12/315,696 | : | TO WITHDRAW |
| Filed: December 5, 2008 | : | FROM RECORD |
| Attorney Docket No. 09131.0037-00000 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on August 11, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted herein cannot be approved at this time since the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b).

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

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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JAN 14 2009

**ROBERT C. BROWN**
**1207 SANDHURST DRIVE**
**TALLAHASSEE FL 32312**

| | | |
|---|---|---|
| In re Application of | : | |
| **BROWN,** Robert C. et al. | : | |
| Application No. 12/315,774 | : | DECISION ON PETITION |
| Filed: December 05, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **RB-0128** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 05, 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 Brown, 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 3767 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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Novartis Institutes for Biomedical Research, Inc.
220 Massachusetts Avenue
Cambridge, MA 02139

| | | |
|---|---|---|
| In re Application of | : | |
| LU, Chris | : | |
| U.S. Application No. 12/315,812 | : | DECISION |
| PCT No.: PCT/US2007/013254 | : | |
| Int. Filing Date: 05 June 2007 | : | |
| Priority Date: 05 June 2006 | : | |
| Attorney Docket No.: 50181-US-PCT | : | |
| For: USE OF TGF-BETA ANTAGONISTS IN TREATMENT OF PARATHYROID-RELATED DISORDERS | : | |

This decision is issued in response to applicant's "Petition under 37 CFR 1.182 and 1.57(a)" filed 27 March 2009. The initial papers filed 05 December 2008 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, the application will be converted to a national stage filing of PCT/US2007/013254.

## BACKGROUND

On 05 June 2007, applicant filed international application PCT/US2007/013254 which claimed a priority date of 05 June 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2008.

On 05 December 2008, applicant filed the present application. The application papers filed therewith included: an application data sheet; a fee transmittal sheet, which included an authorization to charge deposit account; and an executed declaration. The application was processed as a filing under 35 U.S.C. 111(a).

On 31 December 2008, United States Patent and Trademark Office mailed "Notice of Incomplete Nonprovisional Application filed under 37 CFR 1.53(b)" which indicated that no filing date had been accorded.

On 27 March 2009, applicant filed "Petition under 37 CFR 1.182 and 1.57(a)."

## DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions

set forth in 35 U.S.C. 371(c). The official PTO 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:

> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

In the declaration filed 05 December 2008, the applicant clearly identifies in the declaration the specification to which it is directed by referring to international application PCT/US2007/013254. This is a clear indication that the papers were filed under 35 U.S.C. 371. Therefore, the application papers filed 05 December 2008 should have been processed under 35 U.S.C. 371, not 35 U.S.C. 111. Accordingly, the "Notice of Incomplete Nonprovisional Application filed under 37 CFR 1.53(b)" was issued in error and is hereby vacated.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED**.

The above-identified application will be treated as the U.S. National Stage of PCT/US2007/013254 under 35 U.S.C. 371. The "Notice of Incomplete Nonprovisional Application filed under 37 CFR 1.53(b)" mailed 31 December 2008 is **VACATED**.

This application is being forwarded to United States Designated/Elected Office for further processing and for review of the national stage papers submitted 05 December 2008.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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OFFICE OF PETITIONS

**Norbert L Zarumba**
**5806 New Paris Way**
**Ellenton FL 34222**

| | | |
|---|---|---|
| In re Application of | : | |
| Norbert Louis Zarumba | : | |
| Application No. 12/315,818 | : | DECISION ON PETITION |
| Filed: December 5, 2008 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 2009, supplemental petition filed November 18, 2009 and second supplemental petition filed December 14, 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 January 6, 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 March 7, 2009. A Notice of Abandonment was mailed September 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 corrected drawings, a replacement claim and a replacement abstract, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Petitioner's comments concerning use of his fees is noted. The use of applicant's fees is not an issue for determining the granting the instant petition. It appears applicant has been in contact with the Office of Data Management concerning the use of his fees. Should applicant feel he is still due a refund of fees he may file a request for refund of fees. It is noted the application fees paid by applicant on December 8, 2008 were not the current fees at that time. There was a fee increase effective October 2, 2008. Applicant's fee transmittal form shows fees paid under the previous fee schedule. Applicant may also consider contacting the Office of Finance at (571) 272-6400.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571)272-6842.

This application is being referred to the Office of Data Management for further processing of the application.

Carl Friedman
Petitions Examiner
Office of Petitions

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**MICHAEL J. COLITZ, JR.**
**640 DOUGLAS AVENUE**
**DUNEDIN, FL 34698**

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FEB 0 2 2009

**OFFICE OF PETITIONS**

In re Application of
Edward M. **FRIERMAN**
Application No. 12/315,822
Filed: December 5, 2008
Attorney Docket No. **FJ 04/01**

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 5, 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 drivers license of inventor Edward Michael Frierman, 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 3618 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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**OFFICE OF PETITIONS**

In re Application of :
Joseph W. Boyd, et al. :
Application No. 12/315,831 : DECISION REFUSING STATUS
Filed: December 5, 2008 : UNDER 37 CFR 1.47(a)
Atty Docket No. 13425-0204001 :

This is a decision on the "PETITION UNDER 37 C.F.R. §1.47," filed July 24, 2009.

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 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 December 5, 2008, without an executed oath or declaration. Accordingly, on December 26, 2008, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for 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 applicants timely filed the instant petition, along with payment of the petition fee, the late surcharge, and a declaration executed by joint inventors Boyd, Brown, Higginbottom, Horgan (Nee Nguyenj) and Simpson on behalf of themselves and on behalf of non-signing inventor Ouzman. On petition, applicants assert that status under § 1.47(a) is proper because inventor Ouzman has failed to respond or execute the declaration with respect to the present application.

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

The petition includes payment of the petition fee and states a last known address for non-signing inventor Ouzman.

Rule 47 applicants have not submitted adequate proof that inventor Ouzman refuses to join in the present application. Refusal by inventor Ouzman cannot be inferred as the evidence submitted indicates that the application papers were not delivered to her at her last known address, but rather sent via e-mails on two occasions. The evidence does not show that inventor Ouzman received the e-mails. It cannot be inferred that she is refusing to sign by her conduct in not responding where it has not been shown that the inventor received and was able to read the application papers sent by e-mail. Her failure to respond may simply reflect that she did not receive the e-mails or that she was unable to open and read the application as e-mailed.

It is noted that petitioner has the option of obtaining the necessary evidence of refusal by presenting the application papers to the inventor at her last known address by certified mail, return receipt, and as such, being able to obtain adequate proof of receipt of the papers by the inventor. If the inventor fails to respond to a confirmed mail delivery, then applicants will have adequate proof of refusal by conduct. It is also noted that petitioner does not specifically state that the application was mailed to Ouzman at her last know address. Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and an oath or declaration) to the non-signing inventor at the non-signing inventor's last know address, typically a residential address.

Herein, petitioner has not established that the inventor received a complete copy of the application papers and thereafter, refused to execute the oath or declaration.

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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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MAY 28 2010

**OFFICE OF PETITIONS**

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|---|---|
| In re Application of<br>Joseph W. Boyd, et al.<br>Application No. 12/315,831<br>Filed: December 5, 2008<br>Attorney Docket No. 06275-0676001/103881-1 US | DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) |

Papers filed on April 1, 2010 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed November 6, 2009, included a Declaration signed by a previously non-signing inventor, Jacqueline Ouzman, in compliance with 37 CFR 1.63.

Accordingly, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

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

This application is being referred to Technology Center AU 1624 for prosecution in due course.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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**BAKER & DANIELS LLP**
**202 South Michigan Street**
**Suite 1400**
**South Bend IN 46601**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Brian R. Brady et al. | : | |
| Application No. 12/315,894 | : | DECISION ON PETITION |
| Filed: December 8, 2008 | : | |
| Attorney Docket No. HRV0001-03 | : | |

This is a decision on the petition under 37 CFR 1.59(b), filed November 6, 2009, to expunge information from the above identified application. This decision also addresses the Petition for Acceptance of Revocation of Power of Attorney and Appointment of New Power of Attorney and Request for Participation in Patent Prosecution filed September 8, 2009.

**As to the petition under 37 CFR 1.59(b):**

The petition is **granted.**

Petitioner requests that the document entitled Petition for Acceptance of Revocation of Power of Attorney and Appointment of New Power of Attorney under 37 CFR 1.36, Including Request for Participation in Patent Prosecution filed September 8, 2009, be expunged from the record.

As shown below, the 1.36 petition is not accepted and the paper was not properly filed.

It is agreed that it would be appropriate in this instance to expunge the paper filed September 8, 2009 in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

**As to the petition regarding power of attorney and participation:**

The request for Revocation of Power of Attorney and Appointment of New Power of Attorney Under 37 CFR 1.136 filed September 8, 2009, is not accepted. The above identified application claims priority back to provisional application 60/557,302 which has an assignment by all five co-inventors to Heartland Recreational Vehicles, LLC (Heartland). The assignee filed a power of

attorney to the attorneys associated with Customer Number 27187 which was accepted in a Notice of Acceptance of Power of Attorney mailed February 13, 2009.

The request for change in power of attorney filed September 8, 2009 was filed on behalf of two of the five co-inventors. However, as noted, all five co-inventors had assigned the application 100% to Heartland. Heartland is thus a single entity with the right to prosecute the application.

37 CFR 3.71(a) states:

> *37 CFR 3.71. Prosecution by assignee.*
> (a) *Patents — conducting of prosecution.* One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding **to the exclusion of either the inventive entity** (emphasis added) or the assignee(s) previously entitled to conduct prosecution.

Therefore, none of the co-inventors may be permitted to "participate" individually or in groups in the prosecution of the application without assignee's permission. When the co-inventors assigned their rights to Heartland, they waived their ability to involve themselves directly with the prosecution of the application. Co-inventors still retain access to the application.

For the reasons indicated, this petition is dismissed.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Ryan M. Fountain
420 Lincoln Way West
Mishawaka, Indiana 46544

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MAY 26 2010

Baker & Daniels LLP
202 South Michigan Street
Suite 1400
South Bend, IN 46601

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|---|---|
| In re Application of<br>Brian R. Brady et al.<br>Application No. 12/315,894<br>Filed: December 8, 2008<br>For: TRAVEL TRAILER HAVING IMPROVED TURNING RADIUS | RESPONSE TO PETITION TO EXPUNGE FILED UNDER 37 CFR 1.59(b) |

This is a response to the petition under 37 CFR 1.59(b), filed November 19th, 2009, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests the depositions submitted under seal filed November 19th, 2009, are considered to be proprietary information and that they be expunged from the record if not found to be material to the patentability of the application. The proprietary document were filed in accordance to MPEP § 724. 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.

In the meantime, the document will be closed whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document, such as via public PAIR.

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 removed from the official file.

David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

SM/sm: 5/2/10

SM

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202 South Michigan Street
Suite 1400
South Bend IN 46601

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JUL 12 2010

OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Brady et al. | : | |
| Application No. 12/315894 | : | ON PETITION |
| Filing or 371(c) Date: 12/08/2008 | : | |
| Attorney Docket Number: HRV0001-03 | : | |

This is a decision on the "Petition Under 37 C.F.R. § 1.183 Requesting Waiver of the Requirement of a Statement of the Lack of Deceptive Intent for Deletion of Inventors Under 37 C.F.R. § 1.48(a)," filed May 14, 2010.

The petition under 37 C.F.R. § 1.183 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 [insert the applicable code section]."

This application was filed on May 15, 2006, and named Brian R, Brady, John Mitchell Rhymer, Douglas Martin Lantz, Timothy Arthur Hoffman and Scott James Tuttle as joint inventors.

On March 15, 2010, the present petition, along with an oath/declaration executed by John Mitchell Rhymer, were filed. Petitioner provides that Brian R, Brady, Douglas Martin Lantz, Timothy Arthur Hoffman and Scott James Tuttle are not actually inventors, and that Douglas Martin Lantz and Scott James Tuttle are unavailable to execute a statement, pursuant to 37 CFR 1.48(a)(2), that the error in inventorship occurred without deceptive intent. In support of this assertion, Petitioner files copies of relevant portions of transcripts of depositions of Mr. Tuttle and Mr. Lantz. Petitioner provides that Mr. Tuttle "admitted that he did not conceive of the cut-corner design for a trailer with an improved turning radius, the subject matter of many claims pending in the present application." Appendix A at p.1. As to Mr. Lantz, Petitioner provides that he "was "unable to identify any inventive contribution he made to the concepts claimed in the present application." Id., at p.4.

Petitioner also files copies of Affidavits of Brian R. Brady, John M. Rhymer and Timothy A. Hoffman wherein each provides, in relevant part, that "[a]lthough Heartland has attempted to obtain statements from Scott Tuttle and Douglas Lantz that they are not inventors of the subject matter of the Present Application, neither individual will cooperate with Heartland's efforts to correct inventorship." Affidavits of Brian R. Brady, John M. Rhymer and Timothy A. Hoffman at para. 13.

Petition under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that the amendment be accompanied by:

> (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 37 CFR 1.17 (i); and
> (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The MPEP further provides that:

> [i]n those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statements from each originally named inventor. (Emphasis supplied).

MPEP 201.03

Petition under 37 CFR 1.183

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

Showing of refusal or inability to reach the inventor

As to the showing of refusal or inability to reach, 37 CFR 1.47 provides for two separate and distinct situations, the first is when the whereabouts of the inventor are known, and a refusal to join in the application (or in this instance a refusal to execute the statement) is alleged, the MPEP provides

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

MPEP 409.03(d)(II).

In this instance, Brian R. Brady, John M. Rhymer and Timothy A. Hoffman Petitioner each provide, in relevant part, that Heartland has attempted to obtain statements from Scott Tuttle and Douglas Lantz that they are not inventors of the subject matter of the Present Application. However, Petitioner has not presented evidence that Scott Tuttle and Douglas Lantz were presented with a copy of the application papers so that it is clear that they understand that they are not inventors of the subject matter of the Present Application.

While not asserted here, as to the second situation, it is noted that where an inventor cannot be found or reached after diligent effort, the MPEP 409.03(I) provides:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

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).

Conclusion

The facts presented on the record do not adequately establish an extraordinary situation. As such, the petition under 37 CFR 1.183 is dismissed, and the petition under 37 CFR 1.48(a) may not be granted at this time.

The petition is dismissed without prejudice. Petitioner should file a request for reconsideration of petition and include evidence that a copy of the a copy of the application papers (specification, including claims, drawings, and oath or declaration) were presented to Scott Tuttle and Douglas Lantz.

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

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|---|---|
| By mail: | Director for Patents<br>PO Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX: | (571) 273-8300<br>Attn: Office of Petitions |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany Street<br>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
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Suite 1400
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JUL 12 2010

OFFICE OF PETITIONS

ON PETITION

| | | |
|---|---|---|
| In re Application of | : | |
| Brady et al. | : | |
| Application No. 12/315894 | : | |
| Filing or 371(c) Date: 12/08/2008 | : | |
| Attorney Docket Number: HRV0001-03 | : | |

This is a decision on the "Petition Under 37 C.F.R. § 1.182 Requesting Expedited Consideraation of Earlier Filed Petition," filed July 8, 2010, requesting expedited treatment of a petition under 37 CFR § 1.183, filed May 14, 2010.

This Petition is hereby **granted**.

A Decision on the Petition under 37 CFR 1.183 is being mailed on even date herewith.

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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**PATENTS+TMS, P.C.**
**2849 W. ARMITAGE AVE.**
**CHICAGO, IL 60647**

MAILED

JAN 05 2010

OFFICE OF PETITIONS

In re Application of :
Jerral RICHARDSON, et al :
Application No. 12/315,902 : DECISION ON PETITION
Filed: December 8, 2008 : TO WITHDRAW
Attorney Docket No. HJR-P-06-001 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 November 12, 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 the attorney of record was not appointed through designation of a Customer Number, as indicated.

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

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

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

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**2849 W. ARMITAGE AVE.**
**CHICAGO IL 60647**

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|---|---|---|
| In re Application of | : | |
| Jerral RICHARDSON, et al | : | |
| Application No. 12/315,902 | : | DECISION ON PETITION |
| Filed: December 8, 2008 | : | TO WITHDRAW |
| Attorney Docket No. HJR-P-06-001 | : | 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 January 11, 2010.

The request is **APPROVED**.

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

The request was signed by Brian M. Mattson on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: H. JERRAL RICHARDSON
6059 109TH AVE.
KENOSHA WI 53142

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 |
|---|---|---|---|
| 12/315,902 | 12/08/2008 | Jerral Richardson | HJR-P-06-001 |

**CONFIRMATION NO. 9470**

**POWER OF ATTORNEY NOTICE**

29013
PATENTS+TMS, P.C.
2849 W. ARMITAGE AVE.
CHICAGO, IL 60647

*OC000000039978739*

Date Mailed: 02/02/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2010.

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

/dcgoodwyn/

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

# UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Leonard Mackles

Application No. 12316003

Filed: December 9,2008

Attorney Docket No. CHAV3.0-047

: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 22-OCT-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ExxonMobil Research and Engineering Company
P.O. Box 900
Annandale, NJ 08801-0900

In re Application of Sengupta et al. :
Application No. 12/316,030 :
Filing Date: December 9, 2008 :
Attorney Docket No. 2007EM398-US2 :

Decision on Petition

This is a decision in response to the petition filed February 10, 2009, requesting the application be accorded a filing date of December 19, 2008.

The petition is **dismissed**.

## Facts

The application was deposited without drawings on December 9, 2008.

On an unspecified date, petitioner recognized the application papers filed December 9, 2008, had inadvertently failed to include drawings.

Petitioner filed a preliminary amendment to add drawings on December 19, 2008. The preliminary amendment also stated the submission of the drawings completed the application and asserted the application should be accorded a filing date of December 19, 2008.

The Office mailed a Notice of Incomplete Nonprovisional Application on December 30, 2008. The Notice stated drawings did not appear to be part of the application as filed and that a filing date would be accorded upon the submission of drawings.

The instant petition was filed February 10, 2009.

## Discussion

If drawings were necessary for a filing date for the application, the petition would be granted and the application would be accorded a filing date of December 19, 2008. However, in this case, drawings do not appear to be "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

MPEP 601.01(f) states, "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence)."

This application contains several method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g). In other words, the Office should have mailed a "Notice of Omitted Item(s)" indicating drawings were missing but a filing date had been accorded, rather than a "Notice of Incomplete Application."

The application will be accorded a filing date of December 9, 2008, without drawings.[1]

The Notice mailed December 30, 2008, was mailed in error and is hereby withdrawn. Since the Notice was mailed in error, the Office has not charged the $400 petition fee to petitioner's deposit account.

The preliminary amendment filed December 19, 2008, will be considered for entry by the examiner in due course.

This decision does not preclude petitioner from obtaining a filing date of December 19, 2008, and having the drawings be considered part of the original disclosure. If petitioner wishes for the filing date to be December 19, 2008, petitioner may simply file a petition under 37 CFR 1.182 requesting the later filing date along with a petition fee of $400.

The Office of Patent Application Processing will be informed of the instant decision will process the application with a filing date of December 9, 2008, using only the application papers filed on December 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

[1] During examination, if the examiner determines drawings are necessary under 35 USC 113, he may reconsider the filing date issue and have the Office of Patent Application Processing mail a Notice of Incomplete Application. See MPEP 601.01(f). If such a Notice is mailed, petitioner may file a petition requesting a filing date of December 19, 2008.

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SUITE 3500
DETROIT MI 48226

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**OFFICE OF PETITIONS**

In re Application of
Gifford, et al.
Application No. 12/316,043
Filed: 9 December, 2008
Attorney Docket No. 19339-124995

DECISION ON PETITION

This is a decision on the petition filed on 9 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 C.F.R. §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. And, in particular, Petitioner has not as of this writing satisfied the showing of, *inter alia*, of a diligent/search by **Petitioner** for a reasonably believed to be last known/valid/current address of the non-signing inventor(s)—and thus the transmittal of the entire application (description, claims, abstract and drawings) to the non-

signing inventor(s) at that address. (*See, generally:* MPEP §409.03, and §409.03(a)—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 to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).) Petitioner seems to have been satisfied with an Email to a co-inventor and his uncertain response. Thus, if Petitioner cannot satisfy the showing of diligence in the search (item (4), above), it follows that Petitioner cannot satisfy the transmittal/showing requirements (item (2), above). In any future petition in this regard, Petitioner must make these statements himself over his signature and registration number.

*Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record indicates:

The instant application was deposited on 9 December, 2008.

Thereafter, on 5 January, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Missing Parts (inter alia, oath/declaration, surcharge) and stated therein that a fully executed oath/declaration must be filed, with a reply date absent extension of time on or before 5 March, 2009.

On 9 March, 2009, Petitioner David J. Ford (Reg. No. 62,462) filed over a 5 March, 2009, certificate of mailing, *inter alia*, a petition pursuant to 37 C.F.R. §1.47, with an oath/declaration executed by co-inventors Mr. Gifford, Mr. Pribisic, Mr. Marentette, Mr. Daniels and Mr. Frommer for themselves and on behalf of non-signing co-inventor Jan Majewski (Mr. Majewski), but unaccompanied by a copy of transmittal letter evidencing that the entire application (description, claims, abstract, drawing(s)) was sent to the non-signing inventor and an insufficient showing by Petitioner of **Petitioner's** efforts to ascertain reasonably believed to be last known addresses of the non-signing inventors. (Petitioner's submission was as to a matter in 2006.) (The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" (i.e., . "a *bona fide* attempt") has been made in attempting to find or reach the non-signing inventor.)

As set forth above, in any renewed petition Petitioner **must** detail and clarify these items.

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

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

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

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

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

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

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

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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SUITE 3500
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**OFFICE OF PETITIONS**

In re Application of
Gifford, et al.
Application No. 12/316,043
Filed: 9 December, 2008
Attorney Docket No. 19339-124995

DECISION ON PETITION

This is a decision on the petition filed on 29 June, 2009, under 37 C.F.R. §1.47.

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

A grantable petition under 37 C.F.R. §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.

*Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record indicates:

The instant application was deposited on 9 December, 2008.

Thereafter, on 5 January, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Missing Parts (inter alia, oath/declaration, surcharge) and stated therein that a fully executed oath/declaration must be filed, with a reply date absent extension of time on or before 5 March, 2009.

On 9 March, 2009, Petitioner David J. Ford (Reg. No. 62,462) filed over a 5 March, 2009, certificate of mailing, *inter alia*, a petition pursuant to 37 C.F.R. §1.47, with an oath/declaration executed by co-inventors Mr. Gifford, Mr. Pribisic, Mr. Marentette, Mr. Daniels and Mr. Frommer for themselves and on behalf of non-signing co-inventor Jan Majewski (Mr. Majewski), but unaccompanied by a copy of transmittal letter evidencing that the entire application (description, claims, abstract, drawing(s)) was sent to the non-signing inventor and an insufficient showing by Petitioner of Petitioner's efforts to ascertain reasonably believed to be last known addresses of the non-signing inventors. (Petitioner's submission was as to a matter in 2006.) (The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" (i.e., . "a *bona fide* attempt") has been made in attempting to find or reach the non-signing inventor.) The petition was dismissed on 26 March, 2009.

On 29 June, 2009, Petitioner filed a request for reconsideration and, with supporting documentation, demonstrated a diligent effort (*bona fide* attempt) to find or reach the non-signing inventor to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s) at a reasonably believed to be last known address for the non-signing inventor(s); further that the non-signing inventor could not be found and did not reply to any of the several letters transmitted, including that previously averred to have been transmitted with the entire application (description, claims, abstract, drawings) with the oath/declaration, and therefore also is deemed to have constructively refused to join in the oath/declaration and the application.

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

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

## CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

---

[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.

As provided in 37 C.F.R. §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.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing 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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

**§1.2 Business to be transacted in writing.**

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

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JAN MAJEWSKI
233 BEEKROFT/STE. 1201
TORONTO, ON M2N 6Z9
CANADA

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**OFFICE OF PETITIONS**

In re Application of
Gifford, et al.
Application No. 12/316,043
Filed: 9 December, 2008
Attorney Docket No. 19339-124995

COMMUNICATION

Dear Jan Majewski:

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

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

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

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

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

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can neither advise you nor recommend Counsel in this matter.

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

Counsel of Record
CLARK HILL, P.C.
500 WOODWARD AVENUE,
SUITE 3500
DETROIT MI 48226

[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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PETER A. MATOS
MALLOY & MALLOY, P.A.
2800 S.W. THIRD AVENUE
HISTORIC CORAL WAY
MIAMI, FLORIDA 33129

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OCT 02 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Michael Perlman et al. | : | |
| Application No. 12/316,123 | : | DECISION ON PETITION |
| Filed: December 09, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 1.527-B.08 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 07, 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 applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ella Colbert at 571-272-6741, or in her absence, the undersigned at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/316,149 | 12/10/2008 | Frederic Bauchot | FR920080132US1 | 9012 |

30449 7590 05/25/2010
SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

| EXAMINER |
|---|
| BARRON JR, GILBERTO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2432 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/25/2010 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Joshua Schaul
Schmeiser, Olsen & Watts
22 Century Hill Drive
Suite 302
Latham NY 12110

| | | |
|---|---|---|
| In re Application of:<br>Bauchot, Frederic et al.<br>Application No. 12/316,149<br>Attorney Docket No. FR920080132US1<br>Filed: December 10, 2008<br>For: System and Method for Authenticating an End User | )<br>)<br>)<br>)<br>) | **DECISION ON PETITION UNDER 37 C.F.R. ∋ 1.84(a)(2) TO ACCEPT COLOR DRAWINGS** |

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed December 10, 2008, requesting acceptance of color drawings

The petition is **GRANTED**.

## REGULATIONS AND PRACTICE

37 C.F.R. § 1.84(a)(2) states:

(2) *Color.* On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings;

(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

## DECISION

The petition, filed December 10, 2008 satisfies conditions (i) - (iii) above; therefore, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of record.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3612.

/Tod Swann/

Tod Swann, SPE/WQAS
Technology Center 2400
Network, Multiplexing, Cable and Security

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. |
|---|---|---|---|---|
| 12/316,221 | 12/10/2008 | Frederic Bauchot | FR920080207US1 | 1248 |

30449 7590 05/25/2010
SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

| EXAMINER |
|---|
| BARRON JR, GILBERTO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2432 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/25/2010 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Joshua Schaul
Schmeiser, Olsen & Watts
22 Century Hill Drive
Suite 302
Latham NY 12110

| | | |
|---|---|---|
| In re Application of:<br>Bauchot, Frederic et al.<br>Application No. 12/316,221<br>Attorney Docket No. FR920080207US1<br>Filed: December 10, 2008<br>For: System and Method for Authenticating an End User | )<br>)<br>)<br>)<br>) | **DECISION ON PETITION UNDER 37 C.F.R. ∋ 1.84(a)(2) TO ACCEPT COLOR DRAWINGS** |

This is a decision on the petition under 37 C.F.R. 1.84(a)(2), filed December 10, 2008, requesting acceptance of color drawings

The petition is **GRANTED**.

## REGULATIONS AND PRACTICE

37 C.F.R. § 1.84(a)(2) states:

(2) *Color.* On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings;

(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

## DECISION

The petition, filed December 10, 2008 satisfies conditions (i) - (iii) above; therefore, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of record.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3612.

/Tod Swann/

Tod Swann, SPE/WQAS
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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William R. Lambert
2365 Laura Lane
Mountain View CA 94043

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APR 14 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Jones, Smith, and Mangano<br>Application Number: 12/316282<br>Filing Date: 12/11/2008<br>Attorney Docket Number: VTI-0001 | DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a) |

This is in response to the petition under 37 CFR 1.47(a) filed on March 5, 2009.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Ronald D. Jones, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown, via the declaration of petitioners' registered patent practitioner, William R. Lambert, that a copy of the application papers was provided to the non-signing inventor, but the non-signing inventor sent an email in reply stating that he "would not … participate further in the patent preparation process."

As such, the showing of record is that the non-signing inventor expressly refused to sign the declaration naming him as a joint inventor along with Gordon P. Smith and Stefano Mangano.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given 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
Alexandria, VA 22313-1450
www.uspto.gov

Ronald D. Jones
2413 Nashville Road, B13
Bowling Green KY 42104

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APR 14 2009

OFFICE OF PETITIONS

In re Application of
Jones et al.
Application No. 12/316,282
Filed: December 11, 2008
For: VERTICAL AXIS WIND TURBINES WITH BLADES FOR REDIRECTING AIRFLOW

Dear Mr. Jones:

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

WILLIAM R. LAMBERT
2365 LAURA LANE
MOUNTAIN VIEW CA 94043

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JUN 05 2009

OFFICE OF PETITIONS

**PAUL S. ROOY**
**2620 SOUTH PENINSULA DRIVE**
**DAYTONA BEACH FL 32118**

| | | |
|---|---|---|
| In re Application of | : | |
| DOUGLAS AMOS | : | RENEWED |
| Application No. 12/316,288 | : | DECISION ON PETITION |
| Filed: December 12, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0825UR | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 12, 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 the petitioner is the inventor and he is 65 years of age or older as required under M.P.E.P. § 708.02. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Newton Edwards at 571-272-6052.

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

The application is being forwarded to the Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 10 2010

OFFICE OF PETITIONS

**NOVARTIS VACCINES AND DIAGNOSTICS INC.**
**INTELLECTUAL PROPERTY- X100B**
**P.O. BOX 8097**
**Emeryville CA 94662-8097**

| | | |
|---|---|---|
| In re Application of | : | |
| Daniela Tornese Buonamassa et al. | : | |
| Application No. 12/316,310 | : | DECISION ON PETITION |
| Filed: December 11, 2008 | : | |
| Attorney Docket No. 51111-US-PCT (2300-0369.0 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 5, 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 September 6, 2009. A Notice of Abandonment was mailed on February 4, 2010.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on February 16, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received February 16, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Roberta L. Robins
Robins and Pasternak, LLP
1731 Embarcadero Road
Suite 230
Palo Alto, CA 94303

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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**NELSON MULLINS RILEY & SCARBOROUGH, LLP**
**1320 Main Street, 17th Floor**
**Columbia, SC 29201**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Randy Jon Clark, et al. | : | |
| Application No. 12/316,321 | : | DECISION ON PETITION |
| Filed: December 11, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 26401/10271 | : | 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 **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Nelson Mullins Riley & Scarborough, LLP has been revoked by the assignee of the patent application on September 3, 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.

T. Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **JELD-WEN, Inc.**
**Stoel Rives LLP**
**900 SW Fifth Avenue**
**Suite 2600**
**Portland, OR 97204**

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DEC 31 2009

OFFICE OF PETITIONS

**IPG PHOTONICS CORPORATION**
**50 OLD WEBSTER ROAD**
**OXFORD MA 01540**

| | | |
|---|---|---|
| In re Application of | : | |
| Alexey V. Avdokhin, et al. | : | |
| Application No. 12/316,331 | : | DECISION ON PETITION |
| Filed: December 10, 2008 | : | |
| Attorney Docket No. IPG-027 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 Notice to File Corrected Application Papers, mailed February 11, 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) was obtained. Accordingly, the application became abandoned on April 12, 2009. The Notice of Abandonment was mailed October 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 replacement drawings, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

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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NOV 25 2009

OFFICE OF PETITIONS

JONDLE & ASSOCIATES PC
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re
Klemm, et al.
Application No. 12/316,345
Filed: December 11, 2008
Attorney Docket No. 1574-035PP

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 2, 2009.

The fee deficiency submission under 37 CFR 1.28 of $360 (representing the difference between the small entity and large entity filing fees) is hereby **accepted**.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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**LERNER, DAVID, LITTENBERG,**
**KRUMHOLZ & MENTLIK**
**600 SOUTH AVENUE WEST**
**WESTFIELD NJ 07090**

**MAILED**

APR 17 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mizukura et al. | : | |
| Application No. 12/316,382 | : | ON PETITION |
| Filed: December 10, 2008 | : | |
| Attorney Docket No. SONYJP 3.0-1772 | : | |

This is a decision on the petition filed January 30, 2009, requesting that the above-identified application be accorded a filing date of December 10, 2008, rather than the presently accorded date of December 11, 2008. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on December 10, 2008, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EM 308691954 US, showing a handwritten "date-in" of "12/10/08," as well as a "Dec 10 2008" USPS receipt stamp. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on December 10, 2008 at 4:59 p.m. at the Westfield, NJ USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on December 10, 2008.

The petition is **GRANTED**.

A Corrected Filing Receipt, reflecting the proper filing date of December 10, 2008, was mailed on February 11, 2009. The USPTO database has also been updated to indicate the new filing date. A petition under 37 CFR 1.10(c) does not require a petition fee and none has been charged.

This application is being referred to Technology Center AU 2624 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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**STEPHEN S. HODGSON**
**2636 ALBANS RD.**
**HOUSTON TX 77005**

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MAR 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| William M. Bishop | : | |
| Application No. 12/316,398 | : | ON PETITION |
| Filed: December 13, 2008 | : | |
| Attorney Docket No. SAB001/1-US | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 27, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

This matter is being referred to the Technology Center Art Unit 3672 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DITTHAVONG MORI & STEINER, P.C.
918 PRINCE STREET
ALEXANDRIA, VA 22314

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**JAN 15 2010**

| | | |
|---|---|---|
| In re Application of | : | |
| Sanford M. Simon, et al. | : | |
| Application No. 12/316,433 | : | DECISION ON PETITION |
| Filed: December 12, 2008 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. RKF001-001 | : | AND UNDER 37 CFR 1.78(a)(6) |

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 30, 2009, 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 not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. M. Lisa Wilson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition is **DISMISSED**

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

**(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

**(2)** the surcharge set forth in § 1.17(t); and

**(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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 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]

[1] 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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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918 PRINCE STREET
ALEXANDRIA VA 22314

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In re Application of :
Sanford M. Simon, et al. :
Application No. 12/316,433 :
Filed: December 12, 2008 :
Attorney Docket No.: RKF001-001 :

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

This is a decision on the renewed petition, filed March 3, 2010, which is being treated as a petition 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 the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. 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 1633 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of 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
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 |
|---|---|---|---|---|---|---|
| 12/316,433 | 12/12/2008 | 1633 | 1623 | RKF001-001 | 53 | 5 |

**CONFIRMATION NO. 8208**

**CORRECTED FILING RECEIPT**

30671
DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria, VA 22314

*OC000000041356424*

Date Mailed: 04/29/2010

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

**Applicant(s)**

Sanford M. Simon, New York, NY;
Yu Chen, New York, NY;

**Assignment For Published Patent Application**

The Rockefeller University

**Power of Attorney:** The patent practitioners associated with Customer Number 30671

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/474,133 06/23/2006 ABN
which is a CON of 09/982,120 10/17/2001 PAT 7,091,396
which claims benefit of 60/241,053 10/17/2000

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/25/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/316,433**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

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

**Title**

Animals, cells and methods for production of detectably-labeled antibodies

**Preliminary Class**

800

## 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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OFFICE OF PETITIONS

UE-MING YANG
2712 S. UNION AVE.
CHICAGO, IL 60616

| | | |
|---|---|---|
| In re Application of | : | |
| Ue-Ming Yang | : | |
| Application No. 12/316,491 | : | DECISION ON PETITION |
| Filed: December 15, 2008 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition, filed October 5, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Corrected Application Papers (Notice) mailed January 9, 2009, which set a two (2) month period for reply. One (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before April 9, 2009.

Office record show a timely reply was received on March 31, 2009, which includes the replacement drawings. The one (1) month extension of time was received on May 27, 2009.

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 Notice of January 9, 2009 is hereby withdrawn and the application restored to pending status.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Harrington & Smith
4 Research Drive, Suite 202
Shelton, CT 06484

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JUN 24 2010

OFFICE OF PETITIONS

In re Application of Campbell et al. :
Application No. 12/316,520 :
Filing Date: December 12, 2008 :
Attorney Docket No. 003C.0061.U1 (US) :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed February 25, 2010, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

Facts

The Office mailed a non-final Office action including a requirement for restriction/election on July 16, 2009. The Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). The Office action stated, "The phone number for the Group's facsimile is 571-273-8300."

For unknown reasons, when petitioner filed a reply to the Office action by facsimile transmission on August 11, 2009, petitioner transmitted the reply to 571-273-3250 which is associated with the Certification Services section of the Office. The reply includes a certificate of transmission.

The reply filed August 11, 2009, was not matched with the file. As a result, the examiner mailed a Notice of Abandonment on February 5, 2010.

The instant petition was filed February 25, 2010. The petition includes a copy of the reply filed August 11, 2009, and a copy of the sending unit's report confirming transmission of the reply on August 11, 2009.

Discussion

The reply included a certificate of transmission and petitioner has provided a showing in compliance with 37 CFR 1.8(b).

Although the reply was not filed with the proper section of the Office, the reply does appear to have been received by the Office. Therefore, the petition is granted.

The Notice of Abandonment and the holding of abandonment are withdrawn.

The copy of the reply received with the petition will be accepted in the place of the reply shown to have been mailed transmitted by facsimile on August 11, 2009.

Technology Center Art Unit 2833 will be informed of the instant decision and the application, including the copy of the amendment filed February 25, 2010, will be further 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

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**IPLAW SHCB/40-3**
**1701 NORTH STREET**
**ENDICOTT NY 13760**

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APR 0 3 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Yuhko Iwamoto | : | |
| Application No. 12/316,567 | : | DECISION DISMISSING |
| Filed: December 5, 2008 | : | PETITION |
| Attorney Docket No. JP920070137US1 | : | |

This is a decision on the petition filed December 5, 2008, requesting that the above-identified application be accorded a filing date of December 5, 2008.

A review of the file record shows that USPTO records currently have December 5, 2008 as the filing date of the instant application.

In view of the above, the petition is **DISMISSED AS MOOT**

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

Telephone inquiries relating to this decision should be directed to Joan Olszewski at (571) 272-7751. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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|---|---|---|
| In re Application of<br>Shinya Masuda<br>Application No. 11/863,959<br>Filed: September 28, 2007<br>Atty Docket No. P/3541-155 | : | DECISION ON PETITION |
| In re Application of<br>Shinya Masuda<br>Application No. 12/316,658<br>Filed: December 28, 2007<br>Title: Surgical Operating Apparatus | : | |

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 TO CORRECT FILING DATE filed October 31, 2008, which is being treated as a request that the application papers filed December 28, 2007 with 37 sheets of drawings be treated as a new application and accorded a filing date of December 28, 2007.

The petition is **granted**.

The application was filed on September 28, 2007. The original disclosure consisted of 35 pages of a non-English specification, including one page of abstract, and 23 sheets of drawings. On December 28, 2007, applicants filed the certified English translation of the specification, consisting of 78 pages, including one page of abstract, and 37 sheets of drawings.

The present petition was filed on October 31, 2008, requesting that the application be reprocessed with a filing date of

December 28, 2007, using the 37 sheets of drawings supplied on December 28, 2007 instead of the 23 sheets of drawings supplied on September 28, 2007. Petitioner states that the application as filed in the Japanese language referred to 74 figures on 37 pages including Figs. 1-6, 7A-7B, 8A-8B, 9-40, 41A-41B and 42-71. However, in the process of filing the application, an incorrect drawing set was inadvertently filed in place of the intended drawings. Petitioner states that the drawings filed on September 28 pertain to distinguishable subject matter from the specification and include only 26 figures on 23 sheets. Petitioner requests that the application be accorded a later filing date with the correct drawings.

The '959 application as deposited on September 28, 2007 included a specification, claims and drawings, and thus, pursuant to 35 U.S.C. 111(a) was properly accorded a filing date of September 28, 2007. No new matter may be introduced into an application after its filing date. The drawings filed December 28, 2007 constitute new matter. Accordingly, correction of applicant's filing error will not be by way of amending the application as filed September 28, 2007 to introduce the drawings filed December 28, 2007.

Nonetheless, the papers filed on December 28, 2007, include a specification, claims and drawings, and thus pursuant to 35 U.S.C. 111(a) can properly be accorded a filing date of December 28, 2007. As such, correction of applicant's filing error may be by way of treating the papers filed on December 28, 2007 as a new application. The application filed on December 28, 2007 has been assigned application No. 12/316,658. The papers filed December 28, 2007, including the specification, claims, abstract and drawings, and the petition filed October 31, 2008 have been removed from the file of application No. 11/863,959, and have been placed in application No. 12/316,658. No fees paid in application No. 11/863,959 will be applied in application No. 12/316,658. A copy of the present petition will be retained in application No. 11/863,959 to complete the record therein. All future correspondence concerning the application filed December 28, 2007, should be directed to application No. 12/316,658, <u>not application No. 11/863,959</u>.

Petitioner is reminded that a new oath or declaration in compliance with 37 CFR 1.63 and 1.64 covering the newly submitted items is required in application No. 12/316,658. The declaration filed December 28, 2007 is directed to the

application as filed on September 28, 2007. Further, any papers filed in application No. 11/863,959 other than those placed in application No. 12/316,658 by way of this decision, such as Information Disclosure Statements, need to be re-filed in application No. 12/316,658, for consideration in the '658 application.

Receipt of the $400 petition fee required for consideration of this petition is acknowledged.

Application No. 11/863,959 is being returned to the Office of Patent Application Processing to await any further action by applicants. Petitioner is reminded that the search and examination fees have been paid in this application. Further, this application has been scheduled for publication. Petitioner's attention is directed to 37 CFR 1.138(c) and 37 CFR 1.138(d) respectively regarding express abandonment to avoid publication of the application and express abandonment to request refund (before an examination has been made of the application) of the search fee and excess claims fee paid in this application.

Application No. 12/316,658 is being forwarded to the Office of Patent Application Processing for processing with a filing date of December 28, 2007, using the papers received on that date including 37 sheets of drawings, and for mailing of a filing receipt.

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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1180 AVENUE OF THE AMERICAS
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| In re Application of<br>Shinya Masuda<br>Application No. 11/863,959<br>Filed: September 28, 2007<br>Atty Docket No. P/3541-155 | : | DECISION ON PETITION |
| In re Application of<br>Shinya Masuda<br>Application No. 12/316,658<br>Filed: December 28, 2007<br>Title: Surgical Operating Apparatus | : | |

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 TO CORRECT FILING DATE filed October 31, 2008, which is being treated as a request that the application papers filed December 28, 2007 with 37 sheets of drawings be treated as a new application and accorded a filing date of December 28, 2007.

The petition is **granted**.

The application was filed on September 28, 2007. The original disclosure consisted of 35 pages of a non-English specification, including one page of abstract, and 23 sheets of drawings. On December 28, 2007, applicants filed the certified English translation of the specification, consisting of 78 pages, including one page of abstract, and 37 sheets of drawings.

The present petition was filed on October 31, 2008, requesting that the application be reprocessed with a filing date of

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The '959 application as deposited on September 28, 2007 included a specification, claims and drawings, and thus, pursuant to 35 U.S.C. 111(a) was properly accorded a filing date of September 28, 2007. No new matter may be introduced into an application after its filing date. The drawings filed December 28, 2007 constitute new matter. Accordingly, correction of applicant's filing error will not be by way of amending the application as filed September 28, 2007 to introduce the drawings filed December 28, 2007.

Nonetheless, the papers filed on December 28, 2007, include a specification, claims and drawings, and thus pursuant to 35 U.S.C. 111(a) can properly be accorded a filing date of December 28, 2007. As such, correction of applicant's filing error may be by way of treating the papers filed on December 28, 2007 as a new application. The application filed on December 28, 2007 has been assigned application No. 12/316,658. The papers filed December 28, 2007, including the specification, claims, abstract and drawings, and the petition filed October 31, 2008 have been removed from the file of application No. 11/863,959, and have been placed in application No. 12/316,658. No fees paid in application No. 11/863,959 will be applied in application No. 12/316,658. A copy of the present petition will be retained in application No. 11/863,959 to complete the record therein. All future correspondence concerning the application filed December 28, 2007, should be directed to application No. 12/316,658, <u>not application No. 11/863,959</u>.

Petitioner is reminded that a new oath or declaration in compliance with 37 CFR 1.63 and 1.64 covering the newly submitted items is required in application No. 12/316,658. The declaration filed December 28, 2007 is directed to the

application as filed on September 28, 2007. Further, any papers filed in application No. 11/863,959 other than those placed in application No. 12/316,658 by way of this decision, such as Information Disclosure Statements, need to be re-filed in application No. 12/316,658, for consideration in the '658 application.

Receipt of the $400 petition fee required for consideration of this petition is acknowledged.

Application No. 11/863,959 is being returned to the Office of Patent Application Processing to await any further action by applicants. Petitioner is reminded that the search and examination fees have been paid in this application. Further, this application has been scheduled for publication. Petitioner's attention is directed to 37 CFR 1.138(c) and 37 CFR 1.138(d) respectively regarding express abandonment to avoid publication of the application and express abandonment to request refund (before an examination has been made of the application) of the search fee and excess claims fee paid in this application.

Application No. 12/316,658 is being forwarded to the Office of Patent Application Processing for processing with a filing date of December 28, 2007, using the papers received on that date including 37 sheets of drawings, and for mailing of a filing receipt.

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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**LAWSON & PERSSON, P.C.**
**P.O. BOX 712**
**LACONIA NH 03247-0712**

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| In re Application of | : | |
| **Mario M. RATHIE** | : | |
| Application No. 12/316,714 | : | DECISION ON PETITION |
| Filed: December 16, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **1718-001** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 04, 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 declaration of inventor Mario Rathie's, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3637 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Mail Date: 07/30/2010

| | | |
|---|---|---|
| **Applicant** | : Hwan-seon Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663809 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/316,738 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/16/2008 | : 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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191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Mail Date: 07/30/2010

| | | |
|---|---|---|
| **Applicant** | : Hwan-seon Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663809 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/316,738 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/16/2008 | : 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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**NEWPORT BEACH, CA 92660**

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| | | |
|---|---|---|
| In re Application of | : | |
| Brett SICILIANO, et al | : | |
| Application No. 12/316,762 | : | DECISION ON PETITION |
| Filed: December 15, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. SICILI.B-01US | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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 statement signed by Applicant Hedy Porr. 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 returned to Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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KOPPEL, PATRICK,
HEYBL & DAWSON
2815 TOWNSGATE ROAD
SUITE 215
WESTLAKE VILLAGE CA 91361-5827

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OFFICE OF PETITIONS

In re Application of
Hilton, et al.
Application No. 12/316,770
Filed: 15 December, 2008
Attorney Docket No. 922-2T-125

DECISION ON PETITION

This is a decision on the petition filed on 12 June, 2009, under 37 C.F.R. §1.47.

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

A grantable petition under 37 C.F.R. §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, generally:* MPEP §409.03, and §409.03(a)—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 to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

## BACKGROUND

The record reflects as follows:

The application was deposited on 15 December, 2008, without, *inter alia*, a fully executed oath/declaration

The Office mailed a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration 13 January, 2009.

On 12 June, 2009, Petitioner Bryan J. Philpott (Reg. No. 58,688) filed, *inter alia*, a request and fee for extension of time a petition (with fee) pursuant to 37 C.F.R. §1.47, with an oath/declaration executed by co-inventors Mr. Brooks and Mr. Hinojosa for themselves and on behalf of non-signing inventor Par Dannas (Mr. Dannas), with a statement as to the current/valid/reasonably believed to be last known address for Mr. Dannas and transmission of the entire application (description, claims, abstract, drawings) to Mr. Dannas. Thereafter, on 15 June, 2009, Petitioner supplemented the petition with an averment of joinder by Mr. Dannas and a copy of what is averred to be his signed oath/declaration in compliance with 37 C.F.R. §1.63—evidencing joinder.

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

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

## CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **dismissed as moot for joinder**.

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

---

[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.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[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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**GREENBERG TRAURIG LLP (LA)**
**2450 COLORADO AVENUE, SUITE 400E**
**INTELLECTUAL PROPERTY DEPARTMENT**
**SANTA MONICA CA 90404**

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JAN 14 2009

In re Application of

**STEFANON,** Bruno et al.
Application No. 12/316,824
Filed: November 16, 2008
Attorney Docket No. **058034-012400**

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 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 statement by Bruno Stefanon, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

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

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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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**KING & SPALDING**
**CREDIT SUISSE SECURITIES (USA) LLC**
**1180 PEACHTREE STREET, NE**
**34TH FLOOR**
**ATLANTA GA 30309-3521**

MAILED

JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ezekiel et al. | : | |
| Application No. 12/316,920 | : | DECISION GRANTING STATUS |
| Filed: December 17, 2008 | : | STATUS UNDER 37 CFR 1.47(a) |
| Attorney Docket No. 07095.105027 | : | |

This is in response to the petition under 37 CFR 1.47(b), filed August 17, 2009 and the petition under 37 CFR 1.47(a), filed September 1, 2009.

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

Petitioner originally filed a petition under 37 CFR 1.47(b) since both inventors had refused to join or could not be located. Subsequently, however, Paul Jonas Ezekiel, one of the two inventors, provided an executed Declaration and Power of Attorney. Accordingly, 37 CFR 1.47(b) no longer applies. Petitioner now wishes to have a petition under 37 CFR 1.47(a) considered since Gia D. Schneider, the second inventor, still refuses to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

This matter is being referred to Technology Center AU 3693 for examination on the merits.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**GIA D. SCHNEIDER**
**804 LOWELL DRIVE**
**BEAR, DE 19701**

MAILED

JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ezekiel et al. | : | |
| Application No. 12/316,920 | : | ON PETITION |
| Filed: December 17, 2008 | : | |
| Attorney Docket No. 07095.105027 | : | |

Ms. Schneider,

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

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

Telephone inquiries regarding this communication should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CROWE AND DUNLEVY, P.C.
20 NORTH BROADWAY, SUITE 1800
OKLAHOMA CITY, OK 73102-8273

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APR 13 2009

**OFFICE OF PETITIONS**

In re Application of :
Jimmy R. Frazier :
Application No. 12/316,953 :
Filed: December 17, 2008 :
Attorney Docket No. P1807US02 (17125-00030) :

DECISION GRANTING PETITION

This is a decision on the petition filed March 13, 2009, requesting that the above-identified application be accorded a filing date of December 17, 2008, rather than the presently accorded date of December 12, 2008. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the later filing date on the basis that the application was purportedly deposited with Express Mail Service on December 17, 2008 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EM 083363840 US bears a handwritten "date-in" of December 12, 2008, it also includes a USPS receipt date stamp of December 17, 2008. Further, in an independent search of the USPS Express Mail Track and Confirm record for the Express Mail package in question, it was found that the package was accepted at the Oklahoma City, OK, USPS at 6:41 pm on December 17, 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 if 37 CFR 1.10 is December 17, 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 USPTO on December 17, 2008, as shown be the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of December 17, 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 (OIPE) for correction of the filing date to December 17, 2008 and for issuance of a corrected filing receipt.

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

Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**KELLEY DRYE & WARREN LLP**
**400 ALTLANTIC STREET , 13TH FLOOR**
**STAMFORD CT 06901**

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **SMITH, Doug** | : | |
| Application No. 12/317,109 | : | DECISION ON PETITION |
| Filed: December 19, 2008 | : | TO WITHDRAW |
| Attorney Docket No. **DPS 101 (P) (US)** | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 Steven Moore on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 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 Doug Smith 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: **DOUGH SMITH**
**434 WHITE PLAINS ROAD**
**EASTCHESTER NY 10709**

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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. |
|---|---|---|---|---|
| 12/317,221 | 12/18/2008 | Kim Brondum LARSEN | 210,090 | 6628 |

38137 7590 02/17/2010
ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

| EXAMINER |
|---|
| KUNDU, SUJOY K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2863 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/17/2010 | PAPER |

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

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

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**ABELMAN, FRAYNE & SCHWAB**
**666 THIRD AVENUE, 10TH FLOOR**
**NEW YORK NY 10017**

| | |
|---|---|
| **In re Application of** | |
| **LARSEN et al.** | **: DECISION ON REQUEST TO** |
| **Application No.: 12/317,221** | **: PARTICIPATE IN THE PATENT** |
| **Filed: 18 December 2008** | **: PROSECUTION HIGHWAY** |
| **Attorney Docket No.: 210,090** | **: PROGRAM AND PETITION** |
| **For: GENERATOR SYSTEM WITH** | **: TO MAKE SPECIAL UNDER** |
| **INTELLIGENT PROCESSING OF** | **: 37 CFR 1.102(d)** |
| **POSITION SIGNAL** | |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 28 December 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

**Discussion**

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

1. The U.S. application 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 DKPTO, 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 DKPTO, 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 DKPTO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
        iii. contains no priority claim;

2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the DKPTO application(s);
    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 DKPTO 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 DKPTO 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 DKPTO application is a first action allowance then no office action from the DKPTO is necessary should be indicated on the request/petition form;
    b. An English language translation of the DKPTO 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 DKPTO examiner in the DKPTO 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

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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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JOHN R. BENEFIEL
525 LEWIS STREET
BIRMINGHAM MI 48009

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
McBounds :
Application No. 12/317,260 : DECISION
Filed: 22 December, 2008 :
Attorney Docket No. MCB-104 :

This is a decision on the petition filed on 2 November, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

As to the Allegations
of Unintentional Delay

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

*Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).*

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts mailed on 21 January, 2009, with reply due absent an extension of time on or before 21 March, 2009.

The application went abandoned by operation of law after midnight 21 March, 2009.

The Office mailed the Notice of Abandonment on 29 September, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees, oath/declaration and surcharge, and made the statement of unintentional delay.

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

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

## STATUTES, REGULATIONS AND ANALYSIS

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

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

### As to Allegations of Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

**35 U.S.C. §133 Time for prosecuting application.**

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

## CONCLUSION

Accordingly, the petition 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.

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

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

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/317,281 | 12/19/2008 | Frank Eberle | MB 727 | 6835 |

7590 05/06/2010
KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 3748 | |
| MAIL DATE | DELIVERY MODE |
| 05/06/2010 | 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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/06/2010 NFARMER
02/10/2009 EEKUBAY1 00000010 500465 12317281
02 FC:1111 540.00 CR



FORM PET651G (Rev. 08/07)

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PAUL S. ROOY
2620 SOUTH PENINSULA DR.
DAYTONA BEACH, FL 32118

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FEB 11 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Robert S. Reed | : | |
| Application No. 12/317,326 | : | DECISION ON PETITION |
| Filed: December 23, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0827UR | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 23, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from 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 Papers for pre-examination. This application will be accorded "special" status once pre-processing is complete.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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HONDA/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

MAIL

MAY 26 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Behzad Dariush *et al.*
Serial No.: 12/317,369
Filed: December 19, 2008
For: CONTROLLED HUMAN POSE ESTIMATION FROM DEPTH IMAGE STREAMS

DECISION ON PETITION
*ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84(a)(2) filed December 19, 2008 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 7A, 7B, 7C, 7D, and 7E 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**.

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
www.uspto.gov

GAZDZINSKI & ASSOCIATES, PC
16644 WEST BERNARDO DRIVE
SUITE 201
SAN DIEGO CA 92127

**COPY MAILED**

MAR 15 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Lawrence Dale Butts et al. | : | |
| Application No. 12/317,387 | : | NOTICE |
| Filed: December 22, 2008 | : | |
| Attorney Docket No. **AUTO.051A** | : | |

This is a notice regarding your request filed January 4, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Robert F. Gazdzinski
11440 West Bernardo Court, Suite 375
San Diego, CA 92127

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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RICHARD S. ROSS, ESQ.
4801 S. UNIVERSITY DR.
# 237
FT. LAUDERDALE FL 33328

**MAILED**

JUL 06 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Roger Davenport et al. | : | DECISION ON PETITION |
| Application No. 12/317,435 | : | TO WITHDRAW |
| Filed: December 24, 2008 | : | FROM RECORD |
| Attorney Docket No. | : | |

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed June 7, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

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

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

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

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**ROBERT L. RISPOLI**
**PRECISION COMBUSTION, INC.**
**410 SACKETT POINT ROAD**
**NORTH HAVEN, CT 06473**

MAILED

FEB 16 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Pfefferle et al. | : | |
| Application No. 12/317,524 | : | ON PETITION |
| Filed: December 23, 2008 | : | |
| Attorney Docket No. MOI 298 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the attorney for the applicant that the 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 571-272-6059. 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 1797 for action on the merits commensurate with this decision.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**CALIF KIP TERVO**
**6387 CAMINITO LAZARO**
**SAN DIEGO CA 92111**

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MAR 31 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lewis A. Correia | : | |
| Application No. 12/317,559 | : | ON PETITION |
| Filed: December 23, 2008 | : | |
| Attorney Docket No. CORREIL-3 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 23, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

This matter is being referred to the Technology Center Art Unit 3673 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Nields, Lemack & Frame, LLC**
**176 E. Main Street**
**Suite #5**
**Westborough MA 01581**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| A.K. Gunnar Alberg | : | |
| Application No. 12/317,575 | : | DECISION ON PETITION |
| Filed: December 24, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 559P044 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 9, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a 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 1614 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O BOX 10500
McLean, VA 22102

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application of Maejima et al. :
Application No. 12/317,613 :
Filing Date: February 25, 2010 :
Attorney Docket No. 330/207.00A :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed February 25, 2010, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a non-final Office action on July 27, 2009. A reply to the July 27, 2010 Office action was filed on February 1, 2010, and the Office's electronic file folder for the application includes the reply. The Office mailed a Notice of Abandonment on February 3, 2010, stating the application was abandoned because the Office had not received a reply to the July 27, 2010 non-final Office action.

The instant petition to withdraw the holding of abandonment was filed February 25, 2010. The petition asserts a reply was filed in response to the July 27, 2010 Office action.

A review of the record indicates a reply to the July 27, 2010 Office action and a request for a three-month extension of time were filed February 1, 2010. Although the reply and request for an extension of time were filed beyond the expiration of the six-month statutory period, the reply included a certificate of mailing dated January 27, 2010. Therefore, the reply was timely.

In view of the prior facts, the Notice of Abandonment and the holding of abandonment are withdrawn.

Technology Center Art Unit 2817 will be informed of the instant decision and the application, including the amendment filed February 1, 2010, will be further 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
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P.O. Box 1450
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DIW Dec-09

**GUNNISON MCKAY & HODGSON, LLP**
**GARDEN WEST OFFICE PLAZA, SUITE 220**
**1900 GARDEN ROAD**
**MONTEREY CA 93940**

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DEC 07 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kwang Seok Oh et al | : | |
| Application No. 12/317,649 | : | ON PETITION |
| Filed: December 23, 2008 | : | |
| Atty Docket No. GK0020-1D1C | : | |

This is a decision on the petition filed September 8, 2009 under 37 CFR 1.53(e), stating that 20 (twenty claims) were present on filing by the preliminary amendment submitted on December 23, 2008, in the above-identified application.

The petition is **granted**.

The application was deposited on December 23, 2008.

The Office mailed a filing receipt on February 13, 2009, reflecting a total of 15 (fifteen claims) received in the above-identified application on December 23, 2008. Applicant submitted a request for corrected filing receipt on May 18, 2009, indicating that the total number of claims reflected on the filing receipt was incorrect and that a total of (20) twenty claims was submitted by a preliminary amendment (8 pages) on May 23, 2008.

The Office mailed a response on June 3, 2009, stating that the number of claims reflected on the filing receipt is correct. Additionally, Office records only show receipt of 7 (seven pages) of the preliminary amendment submitted on December 23, 2008. It appears that page 4 (four) of the preliminary amendment which include claims 36-40 was not received.

On September 8, 2009, petitioner submitted the above petition along with: a copy of a return postcard receipt date stamped by the USPTO on December 23, 2008, indicating that 8(eight pages) of the preliminary amendment were received on December 23, 2008; a copy of the express mail mailing label showing the "date in" of December 23, 2008, with the same express mail label number EV683562351US on the transmittal letter submitted upon filing of the above-identified application, and a copy of 8 (eight pages) of the preliminary amendment showing a

total of 20 (twenty claims) submitted on December 23, 2008 with the same express mail number of EV683562351US.

MPEP 503 states that "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." Accordingly, the evidence supports the fact that 8 (eight) pages of the preliminary amendment were present on December 23, 2008.

Since page 4 (four) of the preliminary amendment cannot be located in the Office, the copy of page 4 (four) of the preliminary amendment to include claims 36-40 supplied on September 8, 2009, will be used for processing and examination purposes.

This matter is being referred to the Office of Patent Application Processing with an indication that a total of 20 (twenty claims) were submitted on filing by the preliminary amendment on December 23, 2008 and for mailing of a corrected filing receipt.

Telephone inquiries 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

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

**MAILED**

JUN 08 2010

OFFICE OF PETITIONS

Applicant: Carlson et al.
Appl. No.: 12/317,693
Filing Date: December 24, 2008
Title: **ANTHRAX CARBOHYDRATES, SYNTHESIS AND USES THEREOF**
Attorney Docket No.: 235.0083 0120
Pub. No.: US 2009/0246200 A1
Pub. Date: October 1, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 13, 2009, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material error in containing "O-ManNAc" rather than "ß-ManNAc."

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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAR 16 2009

**OFFICE OF PETITIONS**

CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK NY 10016

| | |
|---|---|
| In re Application of | : |
| Rothschild | : |
| Filed: December 29, 2008 | : ON PETITION |
| Application No. 12/317,727 | : |
| Atty. Dkt. No.: Rothschild-6 CON | : |

This decision is in response to the "PETITION FOR DATE OF DEPOSIT IN RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS," filed February 6, 2009. This matter is being treated as a petition to accord the instant application a filing date of December 29, 2008 with page 5 of the specification as part of the application as originally filed.

The Notice to File Corrected Application Papers (Notice) mailed January 28, 2009 indicated that the instant application had been accorded a filing date, but that page 5 of the specification appeared to have been omitted from the application as filed.

In response, petitioner argues that the application as deposited included page 5 of the specification, and has presented as proof of mailing and proof of receipt of page 5 of the specification a receipt card date stamped by the Office on December 29, 2008. The postcard indicates receipt of 51 application papers. A copy of page 5 of the specification purportedly filed with the application was submitted herewith.

The original sheet containing page 5 of the specification has not been located, as only 50 pages of specification appear in the record. However, in view of the evidence presented, the petition to accord the application a filing date of December 29, 2008 with page 5 of the specification as part of the disclosure of invention is GRANTED.

Since the original sheet containing page 5 of the specification cannot be located in the Office, the copy of the figures submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. Petitioner's deposit account will be refunded the $400.00 petition fee that accompanied the petition.

This application will be returned to the Office of Patent Application Processing for further processing with a filing date of December 29, 2008 with page 5 of the specification as part of the application.

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

*/ALESIA M. BROWN/*
Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**SCHWEGMAN, LUNDBERG & WOESSNER, P.A.**
**P.O. BOX 2938**
**MINNEAPOLIS MN 55402**

COPY MAILED
JAN 12 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Yifan Tang | : | |
| Application No. 12/317,730 | : | DECISION ON PETITION |
| Filed: December 29, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 2635.017US1 | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(2), filed December 23, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

A grantable petition to make an application special under 37 CFR 1.102(c)(2) and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice

before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks items 4, and 5.

In regard to item 4, the instant petition fails to state the basis for the special status (i.e., whether (1) development of renewable energy resources or energy conservation, or (2) greenhouse gas reduction).

In regard to item 5, as stated in section III of the Notice, applicant must provide such a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets that materiality standard.

For the above reasons, the petition is dismissed.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

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 in its regular turn.

Carl Friedman
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

**PATENT LAW OFFICE OF DAVID G. BECK**
**P.O. BOX 1146**
**MILL VALLEY CA 94942**

| | | |
|---|---|---|
| In re Application of | : | |
| Yifan TANG | : | |
| Application No. 12/317,730 | : | DECISION ON PETITION TO ACCEPT |
| Filed: December 29, 2008 | : | COLOR DRAWINGS |
| Attorney Docket No. **2635.017US1** | : | |

This is a decision on the petition under 37 CFR 1.84(a)(2), filed December 29, 2008, to accept color drawings in the above-identified application.

The petition requests that the color drawings identified as Fig. 1-20 be accepted in lieu of black and white drawings.

A grantable petition under 37 CFR 1.84(a)(2) must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

> *The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.*

The petition was filed with (1) the required fee of $130; (2) the three sets of color drawings of Fig. 1-20; and (3) the required language in the specification. Accordingly, the petition complies with all the requirements with all the requirements listed above.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-8188.

This application is being referred to Publications Branch for issuance to patent.

/Quyen P Leung/
Supervisory Patent Examiner, Art Unit 2834
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Sunstar, Im**
**22847 West Avenue D. #105**
**Lancaster, CA 93536**

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MAR 04 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sunstar Im | : | |
| Application No. 12/317,733 | : | DECISION ON PETITION |
| Filed: December 29, 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, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant and a photocopy of applicant's driver's license. 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 571-272-4000.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 3644 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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MAILED

MAR 30 2009

OFFICE OF PETITIONS

**LEO J. AUBEL P.C.**
**111 RIVERSHIRE LANE**
**LINCOLNSHIRE IL 60069**

| | | |
|---|---|---|
| In re Application of | : | |
| Laszlo Frecska, et al. | : | |
| Application No. 12/317,735 | : | DECISION ON PETITION |
| Filed: December 29, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. N/A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 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 instant petition includes a copy of the applicant's passport proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3724 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**LERNER, DAVID, LITTENBERG,**
**KRUMHOLZ & MENTLIK**
**600 SOUTH AVENUE WEST**
**WESTFIELD NJ 07090**

MAILED

APR 29 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Arnold M. Gans | : | |
| Application No. 12/317,905 | : | DECISION ON PETITION |
| Filed: December 30, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MEDNUT 3.0-004 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 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 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 1651 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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. |
|---|---|---|---|---|
| 12/317,941 | 12/31/2008 | John Lawson | 1SQJLX055 | 4093 |

37351 7590 02/18/2009
LAW OFFICES OF ANDREW SCHROEDER
P.O. Box 6731
Santa Maria, CA 93454

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2834 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/18/2009 | PAPER |

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

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

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P.O. Box 6731
Santa Maria, CA 93454

| | |
|---|---|
| In re Application of:<br>John Lawson<br>Serial No.: 12/317,941<br>Filed: December 31, 2008<br>Title: **WAVE GENERATING SYSTEM FOR CONVERTING OCEAN WAVES INTO USABLE ENERGY** | DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 |

This is a decision on the petition filed on December 31, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

The conditions I:1 - 4, and II: 1 above are considered to have been met. However, the petition fails to comply with conditions II : 2- 6.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

### Discussion

The petition appears on its face to be filed without recognition of the August 25, 2006 policy change to the petition to make special program. Note that a statement that the application is directed to development or conservation of energy resources, under the new policy, is only sufficient for waiver of the required $130 petition fee. Petitioner's provided statement is sufficient for waiver of said fee. 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.

## DECISION

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

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

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

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

Clayton E. LaBalle

Clayton E. LaBalle, TQAS
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/317,941 | 12/31/2008 | John Lawson | 1SQJLX055 | 4093 |

37351 7590 06/26/2009
LAW OFFICES OF ANDREW SCHROEDER
P.O. Box 6731
Santa Maria, CA 93454

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2834 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/26/2009 | PAPER |

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

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

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LAW OFFICES OF ANDREW SCHROEDER
P.O. Box 6731
Santa Maria CA 93454

| | | |
|---|---|---|
| In re Application of: | | |
| LAWSON, John | : | |
| Serial No.: 12/317,941 | : | DECISION ON PETITION TO |
| Filed: December 31, 2008 | : | MAKE SPECIAL FOR NEW |
| Attorney Docket No.: 1SQJLX055 | : | APPLICATION UNDER 37 |
| Title: WAVE GENERATING SYSTEM FOR CONVERTING OCEAN WAVES INTO USABLE ENERGY | : | C.F.R. § 1.102 & M.P.E.P. § 708.2 |

A decision dismissing the petition to make the above-identified application special for accelerated examination was mailed on February 18, 2009. The decision set a non-extendable time period of one month or 30 (thirty) days, whichever is longer, from its mailing date to correct the deficiency/deficiencies in the petition.

As of March 18, 2009, the expiry of the period set, neither a reply nor a renewed petition was received. Accordingly, the application is no longer eligible for the accelerated examination program.

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

Any inquiries regarding this decision should be directed to Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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. |
|---|---|---|---|---|
| 12/317,958 | 12/31/2008 | Mehdi Abolhassani | TEC.006US | 7290 |

21906 7590 02/18/2010
TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

| EXAMINER |
|---|
| STERRETT, JEFFREY L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2838 | |

| 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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www.uspto.gov

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

| | | |
|---|---|---|
| In re Application of | : | |
| ABOLHASSANI et al. | : | DECISION ON PETITION |
| Application No. 12/317,958 | : | TO MAKE SPECIAL UNDER |
| Filed: 31 December 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. TEC.006US | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 20 January 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed

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

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item 1 and above.

In regard to item 1, petitioner should note that this application has been classified in an area (USPC 363/37) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

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

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2838 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/317,958 | 12/31/2008 | Mehdi Abolhassani | TEC.006US | 7290 |

21906 7590 06/15/2010
TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

| EXAMINER |
|---|
| STERRETT, JEFFREY L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2838 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/15/2010 | 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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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

| | | |
|---|---|---|
| In re Application of | : | |
| ABOLHASSANI et al. | : | DECISION ON PETITION |
| Application No. 12/317,958 | : | TO MAKE SPECIAL UNDER |
| Filed: 31 December 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. TEC.006US | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 20 January 2010 and renewed on 07 June 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (21 May 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 and amended by 75 FR 28554 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2838 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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

Mail Date: 05/04/2010

| | | |
|---|---|---|
| **Applicant** | : Wen Chin Huang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7611383 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/318,072 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/22/2008 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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BUCHANAN INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

MAY 10 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Andrew L. Fahey | : | |
| Application No. 12/318,083 | : | DECISION ON PETITION |
| Filed: December 22, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 0072526-000002 | : | 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 18, 2010.

The request is **APPROVED**.

The request was signed by Charles F. Wieland III on behalf of the practitioners of record associated with Customer Number 21839.

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

All future correspondence will be directed to inventor Andrew L. Fahey at the first 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: Andrew L. Fahey
7670 South Chester Street, Suite 130
Englewood, CO 80112

cc: Charles F. Wieland III
1737 King Street, Suite 500
Alexandria, VA 22314

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/318,083 | 12/22/2008 | Andrew L. Fahey | 0072526-000002 |

**CONFIRMATION NO. 5748**

**POWER OF ATTORNEY NOTICE**

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

*OC000000041514865*

Date Mailed: 05/07/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/18/2010.

- 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.

/idingle/

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

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/318,083 | 12/22/2008 | Andrew L. Fahey | 0072526-000002 |

**CONFIRMATION NO. 5748**

**POA ACCEPTANCE LETTER**

ANDREW L. FAHEY
7670 SOUTH CHESTER STREET
SUITE 130
ENGLEWOOD, CO 80112

*OC000000041514885*

Date Mailed: 05/07/2010

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/18/2010.

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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**JONES, TULLAR & COOPER, P.C.**
**P.O. BOX 2266 EADS STATION**
**ARLINGTON VA 22202**

COPY MAILED

JAN 04 2010

| | | |
|---|---|---|
| In re Application of | : | |
| **SCHNEIDER,** George et al. | : | |
| Application No. 12/318,084 | : | DECISION ON PETITION |
| Filed: December 22, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **W1 . 3114 US** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 by George Schneider, 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 2854 for action on the merits commensurate with this decision.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Mochida, et al. :
Application No. 12/318,145 : DECISION (SUPPLEMENT)
Filed/Deposited: 22 December, 2008 :
Attorney Docket No. 11-423 :

This is a decision on the petition filed on 12 March, 2009, pursuant to 37 C.F.R. §1.53, requesting a filing date of 27 November, 2007, for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

A review of the application file reveals that:

The instant application was deposited on 22 December, 2008.

On 18 February, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Missing Parts and included therein a Notice of Omitted Items, to wit, drawing FIG. 10 described in the specification, and that the application had been accorded a filing date, but without drawing FIG. 10 described in the specification.

OPAP indicated that Petitioner might:

- contend via petition that the 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 deposited.

OPAP set a two- (2-) month period for reply.

On 12 March, 2009, Petitioner submitted a petition, including therewith, *inter alia*, what was averred to be a true copy of drawing FIGS. 10. Petitioner submitted a receipt card date-stamped ("DEC 22 2008") and Petitioner averred that was a true copy the receipt card thus evidencing both content and date received.

The representation to the Office by Petitioner as one registered to practice before the Office is so considered in light of the duty of candor.[1]

## ANALYSIS

A search of the official file reveals that:

- Petitioner deposited the instant application on 22 December 2008.
- The Office record reflects that the drawing FIG. 10 was missing on deposit.

On review of the materials presented on 12 March, 2009, the date-stamped receipt card evidences—in pertinent part—the following:

***

15 sheets (including Figs. *** 10 ***) of Formal Drawings
(Emphasis supplied)

***

Because Petitioner's receipt card adequately itemized the contents of the application as to the elements deposited, it is concluded that the application—including drawing FIG.10 described in the specification—was deposited with the Office on 22 December, 2008, and drawing FIG. 10 described in the specification subsequently was misplaced in the Office.

Accordingly, the application, including 55 pages of specification (description, claims and abstract) and 15 sheets of black and white drawing figures—including drawing FIG. 10 described in the specification—is entitled to a filing date of 22 December, 2008.

The Notice mailed on 18 February, 2009, was sent in error to the extent that it reflected the drawing FIG. 10 described in the specification was missing on deposit and is hereby **vacated** to

[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).

the extent that it stated that the application was accorded a filing date without drawing FIG. 10 described in the specification.

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

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

## CONCLUSION

The petition is **granted**; the petition fee waived and is being refunded *via* deposit account—should Petitioner later find that a fee was not refunded, Petitioner should send a refund request to Office of Finance with a copy of this decision.

**This application is released to OPAP for further processing with a filing date of 22 December, 2008, for the entire application including 55 pages of specification (description, claims and abstract) and 15 sheets of black and white drawings including drawing FIG. 10 described in the specification using:**

- **pages 1–55 of the specification (description, claims abstract) and 14 sheets of black and white drawings deposited on 22 December, 2008; and**
- **drawing FIG. 10 described in the specification deposited on 12 March, 2009; and further,**

**with direction to OPAP to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 22 December, 2008, and reflecting therein that 55 pages of specification (description claims abstract), and 15 sheets of black and white drawings were present on filing.**

---

[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).

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/Caller'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

**§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
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,147 | 12/22/2008 | Yuichi Adachi | 26B-148 | 7346 |

7590 10/22/2009

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3616 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/22/2009 | 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.

Niomi Farmer

Patent Publication Branch
Office of Data Management

Repln. Ref: 10/22/2009 NFARMER 0017191400
DXN:531147 Name/Number:12318147
FC: 5224 $540.00 CR

Adjustment date: 10/22/2009 NFARMER
03/13/2009 HDEMESS1 00000014 12318147
03 FC:1111 -540.00 CP



FORM PET651G (Rev. 08/07)

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

**COPY MAILED**

DEC 17 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Takayoshi Honda | : | |
| Application No.: 12/318,179 | : | ON PETITION |
| Filed: December 23, 2008 | : | |
| Attorney Docket No.: 01-1806 | : | |

This is a decision on the petition, filed December 15, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on November 23, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2839 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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www.uspto.gov

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

Mail Date: 06/03/2010

| | | |
|---|---|---|
| **Applicant** | : Hsin-Hung Chen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626819 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/318,205 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/23/2008 | : 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/09/2010

| | | |
|---|---|---|
| **Applicant** | : Chun-Yu Chen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7643292 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/318,206 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/23/2008 | : 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,231 | 12/23/2008 | Byoung-Min Chun | 301/139 | 7819 |

7590 07/21/2010
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 |
|---|---|
| 07/21/2010 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,312 | 12/24/2008 | Shinji Maruyama | 1081.1324 | 5135 |

7590 10/30/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

| EXAMINER |
|---|
| BEDTELYON, JOHN M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2874 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/30/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Repin. Ref: 10/30/2009 NFARMER 0012210339
DA#:193935 Name/Number:12318312
FC: 9284 $540.00 CR

Adjustment date: 10/30/2009 NFARMER
12/29/2008 JADDO1 03000081 12318312
02 FC:1111 -540.00 CP



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CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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APR 2 0 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Christopher Joel Meyer et al. | : | |
| Application No. 12/318,401 | : | DECISION GRANTING PETITION |
| Filed: December 29, 2008 | : | |
| Attorney Docket No. 08350.0135 | : | |

This is a decision on the petition filed March 30, 2009 in response to the Notice of Incomplete Nonprovisional Application mailed January 28, 2009 requesting that the above identified application be accorded a filing date of December 29, 2008. The petition is being treated under 37 CFR 1.53.

After the filing of the application, on December 28, 2008, the Office of Data Management mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition and 5 sheets of drawings, were filed. Petitioners argue that the drawings were filed with the other application papers on December 29, 2008. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of December 29, 2008, and the above-identified application number, and acknowledges receipt of, *inter alia*, 5 sheets of drawings, was supplied with the present petition. Petitioner requests that the application, including the drawings, be accorded a filing date of December 29, 2008.

Upon review, the drawings purportedly deposited on December 29, 2008 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 29, 2008 included drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 5 sheets of drawings, was complete on filing and entitled to a filing date of December 29, 2008.

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

The Notice of Incomplete Nonprovisional Application mailed December 29, 2008, is withdrawn. The petition fee paid in the amount of $400.00 will be credited to deposit account no. 06-0916.

This matter is being referred to the Office of Patent Application Processing for reprocessing with a filing date of December 29, 2008, using the application papers filed on December 29, 2008 and the drawings supplied on March 30, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,431 | 12/29/2008 | Takashi Ichikawa | 1419.1138 | 2506 |

7590 01/25/2010
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

| EXAMINER |
|---|
| KIM, EUGENE LEE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3711 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/25/2010 | 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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 01/25/2010 NFARMER
-340.00 CP



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,459 | 12/30/2008 | Paul Brun | 140047 | 4325 |

7590 08/06/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| DANIEL, JAMAL D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3723 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/06/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Tomi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
08/07/2009 NFARMER 0000168265

CHECK Refund Total: $540.00

Adjustment date: 08/07/2009 NFARMER
12/31/2008 JADD01 00000078 12318459
02 FC:1111 -540.00 OP



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**Welsh & Flaxman, LLC**
**2000 Duke Street, Suite 100**
**Alexandria, VA 22314**

MAILED

MAY 11 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Benjamin J. Kwitek | : | |
| Application No. 12/318,553 | : | DECISION ON |
| Filed: December 31, 2008 | : | PETITION TO WITHDRAW |
| Attorney Docket No. KWI-013 | : | 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 14, 2009.

The request is **APPROVED**.

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

The request was signed by John L. Welsh on behalf of attorney/agents associated with customer number 21884. All attorneys/agents associated with customer number 21884 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.

Application No. 12/318,553

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Benjamin J. Kwitek
1061 Valley View Drive
Canon City, CO 81212

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/318,553 | 12/31/2008 | Benjamin J. Kwitek | KWI-013 |

**CONFIRMATION NO. 1482**

**POWER OF ATTORNEY NOTICE**

21884
WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

*OC000000035918650*

Date Mailed: 05/11/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/14/2009.

- 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**FOLEY AND LARDNER LLP**
**SUITE 500**
**3000 K STREET NW**
**WASHINGTON DC 20007**

MAILED

AUG 27 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Chen et al. | : | DECISION ON PETITION |
| Application No. 12/318,609 | : | TO WITHDRAW |
| Filed: December 31, 2008 | : | FROM RECORD |
| Attorney Docket No. 035905-0280 | : | |

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 8, 2009.

The request is **NOT APPROVED**.

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

The request was signed by Leon Radomsky on behalf of all attorneys of record, but reflects an incorrect 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.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

3/12/09

| | | |
|---|---|---|
| In re Application of | : | |
| SHIOMITSU, KAZUHIKO et al | : | DECISION ON REQUEST TO |
| Application No. 12/318, 629 | : | PARTICIPATE IN PATENT |
| Filed: Jan. 2, 2009 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 1186.1068 | : | PROGRAM AND PETITION |
| For: METHOD OF MANUFACTURING | : | TO MAKE SPECIAL UNDER |
| MICRONEEDLE | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program under 37 CFR 1.102(d), filed March 9, 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) of $130.00 has been charged to the Deposit Account.

The request to participate in the PPH pilot program and petition comply with the above requirements. Receipt of the Preliminary Amendment filed on March 9, 2009 is acknowledged and has been entered. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

All other inquiries concerning the examination or status of the application should be directed to the Supervisory Patent Examiner, Kevin Sirmons, Art Unit 3767, 571-272-4965.

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

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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. |
|---|---|---|---|---|
| 12/318,630 | 01/02/2009 | Gyeayoung Kwag | 8736.304.00 | 3850 |

30827 7590 07/20/2010
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

| EXAMINER |
|---|
| RIDLEY, BASIA ANNA |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1795 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/20/2010 | 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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

JUL 20 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Kwag et al. | : | DECISION ON PETITION |
| Application No. 12/318,630 | : | TO MAKE SPECIAL UNDER |
| Filed: 1/2/2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. **8736.304.00** | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 7/9/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Tom Dunn at 571-272-1171.

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

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. |
|---|---|---|---|---|
| 12/318,869 | 01/09/2009 | Sosuke Akao | 1186.1069 | 8673 |

21171 7590 06/05/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 2871 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/05/2009 | 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.

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**STAAS & HALSEY LLP**
**SUITE 700**
**1201 NEW YORK AVENUE, N.W.**
**WASHINGTON DC 20005**

| | |
|---|---|
| **In re Application of** | **: DECISION ON REQUEST TO** |
| **Sosuke AKAO, et al.** | **: PARTICIPATE IN THE PATENT** |
| **Application No.: 12/318,869** | **: PROSECUTION HIGHWAY** |
| **Filed: 9 January 2009** | **: PROGRAM AND PETITION** |
| **Attorney Docket No.: 1186.1069** | **: TO MAKE SPECIAL UNDER** |
| **For: RETARDATION SUBSTRATE, METHOD OF MANUFACTURING THE SAME, AND LIQUID CRYSTAL DISPLAY** | **: 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 31 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;

2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s);
    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;
    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 is assessed as follows:

Conditions 1, 2, 4, 5, 6 and 7 above are considered to have been met.
However the request to participate in the PPH program fails to meet condition 3.

Regarding condition 3,

Petitioner has not submitted a proper claims correspondence table. Each claim of the pending US application must be identified as corresponding to a claim(s) of the allowed claims from the JPO applications. Only claims 25-31 were identified as corresponding to claims from allowed JPO applications. Claims 18-24 have not been addressed in the correspondence table.

Petitioner has not amended the claims of the US application to sufficiently correspond to the allowable claims of the Japanese applications. Claim 25 does not correspond to claim 5 of JP 2008-170392. Claim 25 recites "a liquid crystal layer, and a substrate facing the color filter substrate with the liquid crystal layer interposed therebetween". Claims 1 -5 of the Japanese application recite do not contain such limitations. Claim 26 recites "so as to form a film" where claim 1 of JP 2007-242179 recites "thereby forming a thin film". These phrases differ in scope. Claim 26 also lacks the word predetermined in naming the direction and the patterns. These also have differing scope from that of claim 1 in the Japanese application. Claim 27 inherits the deficiencies of claim 26. Claim 27 omits "at which the liquid crystalline compounds changes to the isotropic phase" which causes a difference in scope than claim 3 of the Japanese application. Claim 29 recites "exposing whole of the film to light" where claim 4 recites "exposing whole the substrate to light" which is different in scope.

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

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.REQUEST. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to Brian Sircus at (571) 272-2058.

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

Brian Sircus
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,869 | 01/09/2009 | Sosuke Akao | 1186.1069 | 8673 |

21171 7590 06/29/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2871 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/29/2009 | PAPER |

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

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

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**STAAS & HALSEY LLP**
**SUITE 700**
**1201 NEW YORK AVENUE, N.W.**
**WASHINGTON DC 20005**

**In re Application of**
**Sosuke AKAO, et al.**
**Application No.: 12/318,869**
**Filed: 9 January 2009**
**Attorney Docket No.: 1186.1069**
**For: RETARDATION SUBSTRATE, METHOD OF MANUFACTURING THE SAME, AND LIQUID CRYSTAL DISPLAY**

**: 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 31 March 2009, to make the above-identified application special.

A telephone call was received from Mr Mehdi Sheikerz on 23 June 2009. In this call a deficiency was noted in the prior decision to Paticipate in the Patent Prosecution Highway Program, mailed 8 June 2009. That decision is hereby vacated and replaced by this decision. All time periods for response to the decision on Request to Participate in the Patent Prosecution Highway program are restarted in accordance with the mailing of this letter.

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;

2. Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s);
   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;
   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 is assessed as follows:

Conditions 1, 2, 4, 5, 6 and 7 above are considered to have been met.

However the request to participate in the PPH program fails to meet condition 3.

Regarding condition 3,

Petitioner has not amended the claims of the US application to sufficiently correspond to the allowable claims of the Japanese applications. Claim 21, line 10 recites a liquid crystal layer, however a solidified liquid crystal layer was previously recited. This second liquid crystal layer is not present in any of claim 1-5 of JP 2008-170392. Similarly line 11 recites a substrate facing the color filter substrate; however a substrate was previously recited. This second substrate is not present in any of claims 1-5 of JP 2008-170392. Claim 25 does not correspond to claim 5 of JP 2008-170392. Claim 25 recites "a liquid crystal layer, and a substrate facing the color filter substrate with the liquid crystal layer interposed there between". Claims 1 -5 of the Japanese application recite do not contain such limitations. Claim 26 recites "so as to form a film" where claim 1 of JP 2007-242179 recites "thereby forming a thin film". These phrases differ in scope. Claim 26 also lacks the word predetermined in naming the direction and the patterns. These also have differing scope from that of claim 1 in the Japanese application. Claim 27 inherits the deficiencies of claim 26. Claim 27 omits "at which the liquid crystalline compounds changes to the isotropic phase" which causes a difference in scope than claim 3 of the Japanese application. Claim 29 recites "exposing whole of the film to light" where claim 4 recites "exposing whole the substrate to light" which is different in scope.

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

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.REQUEST. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to Brian Sircus at (571) 272-2058.

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

Brian Sircus
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,869 | 01/09/2009 | Sosuke Akao | 1186.1069 | 8673 |

21171 7590 10/27/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

| EXAMINER |
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| NGUYEN, HOAN C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2871 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/27/2009 | PAPER |

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

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

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**STAAS & HALSEY LLP**
**SUITE 700**
**1201 NEW YORK AVENUE, N.W.**
**WASHINGTON DC 20005**

| | |
|---|---|
| **In re Application of** | **: DECISION ON REQUEST TO** |
| **Sosuke AKAO, et al.** | **: PARTICIPATE IN THE PATENT** |
| **Application No.: 12/318,869** | **: PROSECUTION HIGHWAY** |
| **Filed: 09 January 2009** | **: PROGRAM AND PETITION** |
| **Attorney Docket No.: 1186.1069** | **: TO MAKE SPECIAL UNDER** |
| **For: LIGHT-EMISSION CONTROL DEVICE AND LIQUID-CRYSTAL DISPLAY APPARATUS** | **: 37 CFR 1.102(d)** |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program, the petition under 37 CFR 1.102(d), filed 31 March 2009, to make the above-identified application special and the reply to the PPH petition decision, filed 24 July 2009.

The request and petition are **GRANTED**.

## Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and

b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

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

Telephone inquiries concerning this decision should be directed to Michael Day at 571/272-1568.

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

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

Michael Day
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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**POST OFFICE BOX 15035**
**CRYSTAL CITY STATION**
**ARLINGTON VA 22215-0035**

**COPY MAILED**
March 31, 2009
**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Neibert et al. | : | |
| Application No. 12/318,958 | : | ON PETITION |
| Filed: January 13, 2009 | : | |
| Attorney Docket No. 30036.00 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 13, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 3632 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Paul D. Neibert
192 Eppinger Drive
Port Charlotte, FL 33953

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/318,993 | 01/14/2009 | Hiroki Takeuchi | 140129 | 3230 |

7590 03/26/2010

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 3656 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/26/2010 | 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: 03/25/2010 NFARMER
01/15/2009 ANONDAFI 00000004 12318993
02 FC:1111 -540.00 OP



FORM PET651G (Rev. 08/07)

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Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Masashi Hankawa | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623306 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/319,050 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2008 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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**IPG PHOTONICS CORPORATION**
**50 OLD WEBSTER ROAD**
**OXFORD MA 01540**

COPY MAILED

JAN 04 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Yuri Grapov et al | : | |
| Application No. 12/319,069 | : | DECISION ON PETITION |
| Filed: December 31, 2008 | : | |
| Attorney Docket No. IPG-023 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 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 replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Corrected Application Papers mailed January 28, 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 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,131 | 12/30/2008 | Gerald A. Dotson | 270057.402 | 3892 |

25315 7590 05/10/2010
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

| EXAMINER |
|---|
| VU, KIEU D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2173 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/10/2010 | ELECTRONIC |

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

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

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blgdocketing@blacklaw.com

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SEED INTELLECTUAL PROPERTY
LAW GROUP PLLC
701 Fifth Ave
Suite 5400
Seattle WA 98104

In re Application of:
DATSON, Gerald et al.
Application No. 12/319,131
Filed: December 30, 2008
For: MULTI-MODE VIEWER CONTROL FOR VIEWING AND MANAGING GROUPS OF STATISTICS

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on March 20, 2009, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 1-11 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee and was filed with three (3) copies of color drawings of Figures 1-11. Page 2, lines 2-5, of the specification contains the required notification described above. However, the petition lacks an explanation why the color drawings are necessary.

Accordingly, the petition is **DISMISSED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,131 | 12/30/2008 | Gerald A. Dotson | 270057.402 | 3892 |

25315 7590 06/28/2010
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

| EXAMINER |
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| VU, KIEU D |

| ART UNIT | PAPER NUMBER |
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| 2173 | |

| NOTIFICATION DATE | DELIVERY MODE |
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| 06/28/2010 | ELECTRONIC |

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LAW GROUP PLLC
701 Fifth Ave
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In re Application of:
DATSON, Gerald et al.
Application No. 12/319,131
Filed: December 30, 2008
For: MULTI-MODE VIEWER CONTROL FOR VIEWING AND MANAGING GROUPS OF STATISTICS

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the request for reconsideration of petition under 37 C.F.R. § 1.84(a)(2), filed on June ~~17~~ 14, 2010 requesting acceptance of color drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee, three (3) copies of color drawings and the required notification described above. Additionally, the request for reconsideration provides an explanation why the color drawings are necessary.

Accordingly, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,145 | 12/30/2008 | Gerald A. Dotson | 270057.401 | 9742 |

25315 7590 05/11/2010
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| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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| 2173 | |

| NOTIFICATION DATE | DELIVERY MODE |
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| 05/11/2010 | ELECTRONIC |

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Seattle WA 98104

In re Application of:
DATSON, Gerald et al.
Application No. 12/319,145
Filed: December 30, 2008
For: NESTING NAVIGATOR USER INTERFACE CONTROL

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on March 19, 2009, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 3-5j be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee and was filed with three (3) copies of color drawings of Figures 3-5j. Page 2, lines 2-4, of the specification contains the required notification described above. However, the petition lacks an explanation why the color drawings are necessary.

Accordingly, the petition is **DISMISSED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,145 | 12/30/2008 | Gerald A. Dotson | 270057.401 | 9742 |

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SEATTLE, WA 98104

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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| NOTIFICATION DATE | DELIVERY MODE |
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In re Application of:
DATSON, Gerald et al.
Application No. 12/319,145
Filed: December 30, 2008
For: NESTING NAVIGATOR USER INTERFACE CONTROL

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the request for reconsideration of petition under 37 C.F.R. § 1.84(a)(2), filed on June ~~11~~ 14, 2010 requesting acceptance of color drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee, three (3) copies of color drawings and the required notification described above. Additionally, the request for reconsideration provides an explanation why the color drawings are necessary.

Accordingly, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,146 | 12/30/2008 | Gerald A. Dotson | 270057.403 | 2408 |

25315 7590 05/10/2010
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SEATTLE, WA 98104

| EXAMINER |
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| VU, KIEU D |

| ART UNIT | PAPER NUMBER |
|---|---|
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| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/10/2010 | ELECTRONIC |

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LAW GROUP PLLC
701 Fifth Ave
Suite 5400
Seattle WA 98104

In re Application of:
DATSON, Gerald et al.
Application No. 12/319,146
Filed: December 30, 2008
For: MULTI-MODE VIEWER CONTROL FOR VIEWING A SERIES OF STATISTICAL VALUES

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on March 23, 2009, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 1-12 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee and was filed with three (3) copies of color drawings of Figures 1-12. Page 2, lines 2-4, of the specification contains the required notification described above. However, the petition lacks an explanation why the color drawings are necessary.

Accordingly, the petition is **DISMISSED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,146 | 12/30/2008 | Gerald A. Dotson | 270057.403 | 2408 |

25315 7590 06/28/2010
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SEATTLE, WA 98104

| EXAMINER |
|---|
| VU, KIEU D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2173 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/28/2010 | ELECTRONIC |

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LAW GROUP PLLC
701 Fifth Ave
Suite 5400
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In re Application of:
DATSON, Gerald et al.
Application No. 12/319,146
Filed: December 30, 2008
For: MULTI-MODE VIEWER CONTROL FOR VIEWING A SERIES OF STATISTICAL VALUES

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the request for reconsideration of petition under 37 C.F.R. § 1.84(a)(2), filed on June ~~13~~ 14, 2010 requesting acceptance of color drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee, three (3) copies of color drawings and the required notification described above. Additionally, the request for reconsideration provides an explanation why the color drawings are necessary.

Accordingly, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,172 | 01/02/2009 | Brian Edward Richardson | PA5131US | 7878 |

22830 7590 02/22/2010
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

| EXAMINER |
|---|
| DZIERZYNSKI, EVAN P |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2875 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/22/2010 | PAPER |

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

| | | |
|---|---|---|
| In re Application of | : | |
| Brian Edward RICHARDSON | : | DECISION ON PETITION |
| Application No. 12/319,172 | : | TO MAKE SPECIAL UNDER |
| Filed: 02 January 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. PA5131US | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 22 December 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the

quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item 1 above.

In regard to item 1, petitioner should note that this application has been docketed art unit 2875 in USPC 362/615, which is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

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

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2875 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,172 | 01/02/2009 | Brian Edward Richardson | PA5131US | 7878 |

22830 7590 07/13/2010
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

| EXAMINER |
|---|
| DZIERZYNSKI, EVAN P |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2875 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/13/2010 | PAPER |

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|---|---|---|
| In re Application of | : | |
| Brian Edward RICHARDSON | : | DECISION ON PETITION |
| Application No. 12/319,172 | : | TO MAKE SPECIAL UNDER |
| Filed: 02 January 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. PA5131US | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed on 22 December 2009 and renewed on 10 June 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **DISMISSED**.

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

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

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

by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item 4.

In regard to item 4, applicant's statement pertaining to how the materiality standard is met does not satisfy the requirements for this pilot. The instant petition includes a statement identifying the basis for the special status as the discovery or development of energy resources and materially contributes to the more efficient utilization and conservation of natural resources. However, the materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to energy conservation. It is not seem how the claimed invention contributes to the discovery or development of (renewable) energy resources. The argument related to the inefficiencies of LCDs is not understood since the specification discloses that the present invention can be used with LCDs. Further, the arguments directed to the reflective efficiency of the light guide are not supported by the claims.

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

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2875 for action in its regular turn.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**MARY J. GASKIN**
**ANNELIN & GASKIN**
**2170 BUCKTHORNE PL.**
**SUITE 220**
**THE WOODLANDS TX 77380**

**COPY MAILED**

JAN 3 0 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kenneth TIERLING | : | |
| Application No. 12/319,190 | : | DECISION ON PETITION |
| Filed: January 2, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. TIER-03 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 2, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

All other inquiries concerning status of the application should be directed the Office of Patent Application Processing at 571-272-4000.

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

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
www.uspto.gov

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MAR 30 2009

OFFICE OF PETITIONS

**MILDRED SHULMAN**
**15 CHARLES STREET APT 3F**
**NEW YORK NY 10014-3013**

| | | |
|---|---|---|
| In re Application of | : | |
| Mildred Shulman | : | |
| Application No. 12/319,205 | : | DECISION ON PETITION |
| Filed: January 5, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. N/A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 5, 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 the applicant's birth certificate proving that she 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 3728 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 26 2009

OFFICE OF PETITIONS

ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

In re Application of :
Bauman, et al. :
Application No. 12/319,214 : ON PETITION
Filed: December 31, 2008 :
Attorney Docket No. 103534-0006

This is a decision on the petition under 37 CFR 1.78, filed September 17, 2009, which will be 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 the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

**TREATMENT 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.

It is noted that 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The instant non-provisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for 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.

**TREATMENT UNDER 37 CFR 1.78(a)(6)**

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

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

It is noted that 37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

**The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C.§ 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.**

**Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.**

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

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

This matter is being referred to Technology Center 2800, Art Unit 2836 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
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
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 |
|---|---|---|---|---|---|---|
| 12/319,214 | 12/31/2008 | 2836 | 610 | 103534-0006 | 16 | 1 |

**CONFIRMATION NO. 7299**

**CORRECTED FILING RECEIPT**

35940
ATER WYNNE LLP
1331 NW Lovejoy St. Suite 900
PORTLAND, OR 97209-2785

*OC000000038333293*

Date Mailed: 10/16/2009

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)**

Paul Baumann, Homer Glen, IL;
Bruce Wingen, Denver, CO;

**Power of Attorney:** The patent practitioners associated with Customer Number 35940

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 61/009,711 12/31/2007
and claims benefit of 61/009,711 12/31/2007
and is a CIP of 12/148,007 04/15/2008
which claims benefit of 60/923,871 04/16/2007
and is a CIP of 11/999,581 12/05/2007
which claims benefit of 60/873,062 12/05/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/26/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/319,214**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

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

**Title**

Daycab auxiliary power conversion apparatus

**Preliminary Class**

307

## 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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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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MAY 07 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Lei et al.<br>Application Number: 12/319223<br>Filing Date: 01/03/2009<br>Attorney Docket Number: 100544-5004-US | DECISION DISMISSING PETITION |

This is a decision in reference to the "PETITION TO ACCORD FILING DATE UNDER 37 C.F.R. § 1.10(c)," filed on April 7, 2009, requesting that the above-identified application be accorded a filing date of December 31, 2008, rather than the currently-accorded filing date of January 3, 2009.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

Petitioners allege that the application was deposited in "Express Mail Post Office to Addressee" service on December 31, 2008. In support, petitioners have provided a copy of USPS Express Mail Customer Label No. EV533740290US. The Customer Label shows a "date-in" and an official USPS postmark date of December 31, 2008.

37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the

"date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition lacks item (2)

In regards to item (2), a search of the official file reveals that petitioner failed to place the Express Mail label number on the originally filed specification and claims, drawings, and transmittal sheet. Any renewed petition should identify where the Express Mail label number can be found in the originally-filed application papers.

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

The difficulty caused by an applicant's failure to place an Express Mail label number on a paper is clearly illustrated by this case. Since no Express Mail label number was placed on the application papers prior to mailing, the USPTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the application was filed on December 31, 2008.

Petitioner's argument that the petition should be granted because the Express Mail number is present on a return receipt postcard is not persuasive. MPEP 513(III) states, in pertinent part, that to be effective, the number must be placed on each separate paper

and each fee transmittal either directly on the document or by a separate paper firmly and securely attached. A postcard receipt is not part of the application correspondence, it is returned to the applicant.[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

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

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

[1] It is additionally noted that the postcard receipt provided with the petition does not show a "Office date" stamp. As such, there is no evidence to verify that the postcard receipt in question was received in the Office with the subject application papers.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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2 PALO ALTO SQUARE
3000 EL CAMINO REAL, STE 700
PALO ALTO CA 94306

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**OFFICE OF PETITIONS**

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|---|---|
| In re Application of<br>Lei et al.<br>Application Number: 12/319223<br>Filing Date: 01/03/2009<br>Attorney Docket Number: 100544-5004-US | DECISION DISMISSING PETITION |

This is a decision in reference to the "RENEWED PETITION TO ACCORD FILING DATE UNDER 37 C.F.R. § 1.10(c)," filed on July 7, 2009, requesting that the above-identified application be accorded a filing date of December 31, 2008, rather than the currently-accorded filing date of January 3, 2009.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

Petitioners again allege that the application was deposited in "Express Mail Post Office to Addressee" service on December 31, 2008. In support, petitioners provided, with the original petition, a copy of USPS Express Mail Customer Label No. EV533740290US. The Customer Label shows a "date-in" and an official USPS postmark date of December 31, 2008.

The present renewed petition is accompanied by a copy of a postcard receipt containing the above-referenced Express Mail number, and an "Office-date" stamp dated "010309" containing the above-identified application number.

Petitioner again argues that the petition should be granted because the Express Mail number is present on a return receipt postcard.

37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition lacks item (2)

Petitioner's argument has been considered, but is not persuasive.

MPEP 513(III) states, in pertinent part, that if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c), (d), (e), (g) or (h), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d), 1.10(e), 1.10(g), or 1.10(h). To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the

same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

Petitioners' argument that the Express Mail number "was placed in a prominent location on a cover that itemized each of the separate papers (with page count) and that the cover was securely attached to the itemized papers," is not persuasive. A review of the Official record, as stated previously, reveals that no papers containing the Express Mail label number are contained therein. In the absence of the Express Mail label number on the application papers in the original file, relief under 37 CFR 1.10(c) cannot be granted. It appears that the "cover" to which petitioners allude is merely the return receipt postcard. A return receipt postcard is not part of the application as filed, but is an attachment which is stamped and returned to the applicant.

Furthermore, petitioner's argument that the attorney docket number contained on the postcard is also present on the application papers is not persuasive. 37 CFR 1.10(c) requires that 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." There is no provision in the rule for the use of an attorney docket number in lieu of the Express Mail mailing number.

As such, the petition must be again dismissed.

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

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

By 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 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PALO ALTO CA 94306

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Lei et al.<br>Application Number: 12/319223<br>Filing Date: 01/03/2009<br>Attorney Docket Number: 100544-5004-US | DECISION DENYING PETITION |

This is a decision in reference to the "RENEWED PETITION TO ACCORD FILING DATE UNDER 37 C.F.R. § 1.10(c)," filed on September 4, 2009, requesting that the above-identified application be accorded a filing date of December 31, 2008, rather than the currently-accorded filing date of January 3, 2009.

The petition is **DENIED**.[1]

## BACKGROUND

On January 3, 2009, the application was filed.

On April 7, 2009, a petition under 37 CFR 1.10(c) was filed, requesting that the application be accorded a filing date of December 31, 2008, rather than the currently-accorded filing date of January 3, 2009.

On May 7, 2009, the petition was dismissed.

On July 7, 2009, a renewed petition was filed.

On August 4, 2009, the renewed petition was dismissed.

On September 4, 2009, the subject twice renewed petition was filed.

Petitioners again aver that the application was deposited in "Express Mail" Post Office to Addressee service, in accordance with 37 CFR 1.10, on December 31, 2008. Specifically, petitioners

[1] This is a final agency action. See MPEP 1002.02.

assert that the Express Mail number was present on the correspondence as originally filed, because the Express Mail number was present on the return receipt postcard. In support, petitioners provided, with the renewed petition filed on July 7, 2009, a copy of USPS Express Mail Customer Label No. EV533740290US. The Customer Label shows a "date-in" and an official USPS postmark date of December 31, 2008. Petitioners further provided a copy of an itemized return receipt postcard containing the "Express Mail" number listed above as well as the application number, and itemizing the application elements filed.

The prior petitions were dismissed on May 7, 2009, and August 4, 2009, for lack of placement of the "Express Mail" label number on the application papers as filed, as required by 37 CFR 1.10(c). Specifically, a review of the application papers in the Official file revealed that the "Express Mail" had not been placed on the correspondence prior to the original mailing by "Express Mail."

On September 4, 2009, the subject twice renewed petition was filed. Petitioners again assert that the application is entitled to a filing date of December 31, 2008. Petitioners additionally argue that the document containing the "Express Mail" number is a "cover that itemized each of the separate papers" and is, therefore, a part of the correspondence as originally filed as required by 37 CFR 1.10(c).

## STATUTES AND REGULATIONS

35 U.S.C. 21(a) states:

The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered to be filed in the Office on the date on which it was deposited with the United States Postal Service but for postal interruptions or emergencies designated by the Director.

37 C.F.R. 1.10 Filing of correspondence by "Express Mail."

(a)...

(b)...

(c). Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between

> the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> **(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and**
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit...
>
> (emphasis added)

**OPINION**

Petitioners again argue that the postcard containing the Express Mail number is a part of the correspondence filed in the Office, which was received on January 3, 2009.

At the outset, a search of the Image File Wrapper (IFW) for the subject application reveals that no document containing the Express Mail number referenced above is located therein. The IFW is the official record of the application. Petitioners' assertion that the Express Mail number is included in the application papers is not more persuasive than the contents of the official IFW file. As such, the showing of record is that petitioner failed to place the Express Mail label number on the originally filed specification and claims, drawings, and transmittal sheet.

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is

identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

The difficulty caused by an applicant's failure to place an Express Mail label number on a paper is clearly illustrated by this case. Since no Express Mail label number was placed on the application papers prior to mailing, the USPTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the application was filed on December 31, 2008.

Further, petitioner's argument that the "Express Mail" label number was placed on a "cover" which was "securely attached to the itemized papers," is not convincing. Neither the application transmittal sheet, nor any other papers received with original disclosure, contain the Express Mail label number. The only document which contains the Express Mail number is the postcard, which was returned to the applicant. If, as alleged by petitioners, this document was a cover sheet, rather than a return receipt postcard, it would not have been returned to the applicants, but would be retained a part of the application file.

Simply put, in view of the USPTO regulations and policies, there is no basis to consider a document which itemized the application papers and was returned to the applicant a cover sheet, which is part of the application papers, rather than a postcard, which is not part of the correspondence filed in the Office. As no document containing the Express Mail label is located among the papers in the official IFW file, the requirements of 37 CFR 1.10(c) have not been satisfied.

MPEP 513(III) states, in pertinent part, that to be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached.

A similar situation was addressed by the U.S. District Court for the Eastern District of Virginia in the recent case of *O'Shannessy v. Doll*.[2] In *O'Shannessy*, applicant asserted that the Express Mail number, placed on the return receipt postcard, should be considered to be present on the application papers as deposited in the USPTO. In a memorandum opinion, the court agreed with the USPTO's interpretation that the return receipt postcard was not part of "the paper(s) or fee(s) that constitute the

[2] Action No. 1:08cv01 (May 20, 2008).

correspondence."[3] In pertinent part, the *O'Shannessy* court stated:

> [I]t is clear that a return receipt postcard serves no purposes other than to provide an applicant with an acknowledgement that the USPTO received his or her application documents and fees filed with the USPTO by utilizing the USPS's "Express Mail" service. Because the USPTO does not retain the postcard, but rather returns it to the applicant, the postcard is not part of "the paper(s) or fee(s) that constitute the correspondence" filed with the agency; its returned to the applicant.[4]

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

## CONCLUSION

The evidence and arguments presented have been carefully considered, but are not persuasive of applicants' entitlement to a filing date of December 31, 2008. In order to obtain a filing date of December 31, 2008 under 37 CFR 1.10, however, petitioners must establish to the satisfaction of the Director that the original application papers were properly deposited in Express Mail service on December 31, 2008. In this case, applicants have not provided sufficient evidence to support their entitlement to a filing date of December 31, 2008. Accordingly, applicants have failed to meet their burden.

The previous decision has been reconsidered as requested. However, the petition is denied.

This application file is being forwarded to the Office of Patent Application Processing for further processing with the presently accorded filing date of January 3, 2009.

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[3] Id.
[4] Id.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (571) 272-3231.

Charles A. Pearson
Director
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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| In re Application of | : | |
| Lei et al. | : | |
| Application No. 12/319224 | : | ON PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This Decision is in response to the "Petition to Accord Filing Date Under 37 CFR § 1.10(c)," filed April 6, 2009.

The petition is dismissed.

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]", and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application.

The present petition

Applicant alleges that the application was deposited in Express Mail service on December 31, 2008. In support of this assertion, Applicant files copies of an Express Mail Label, No. EV533740290US, date-stamped by the United States Postal Service ("USPS") on December 31, 2008, along with a return receipt postcard listing as filed on December 31, 2008 in Express Mail Label No. EV533740290US a 1 pg. Utility Patent Application Transmittal, 3 pgs.; Declaration, 28 pgs. Specification (including Abstract); 20 shts. Figures, and a Self-Addressed Return Postcard.

Applicant avers in the petition that the "[t]he USPTO label attached to the postcard incorrectly indicates the filing date as January 3, 2009. A copy of the postcard is attached herewith as Exhibit B."

A review of the petition papers and of the copy of the postcard identified as Exhibit B reveals that the copy of the postcard does not contain any notation or USPTO label from this Office.

Review of the application file

A review of the application file reveals that application papers filed on January 3, 2009, reveal that the application papers, including the Utility Patent Application Transmittal, do not bear an Express Mail Label Number.

Applicable Law, Rules and MPEP

Section (c) of 37 CFR 1.10 provides that

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The MPEP 503 provides

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.

Analysis and conclusion

A review of the application papers filed on January 3, 2009, reveal that the application papers, including the Utility Patent Application Transmittal, do not bear an Express Mail Label Number. A review of the petition papers and of the copy of the postcard identified as Exhibit B reveals that the copy of the postcard does not contain any notation from this Office. Applicant has thus failed to demonstrate compliance with 37 CFR 1.10(c).

The petition is dismissed without prejudice. Applicant should file a renewed petition and include the necessary showing.

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

| | |
|---|---|
| By mail: | Director for Patents<br>PO Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX: | (571) 273-8300<br>Attn: Office of Petitions |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany Street<br>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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| In re Application of | : | |
| Lei et al. | : | |
| Application No. 12/319224 | : | ON PETITION |
| Filing or 371(c) Date: 12/31/2008 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This Decision is in response to the "Renewed Petition to Accord Filing Date Under 37 CFR § 1.10(c)," filed June 29, 2009.

The petition is **granted**.

Applicant files the present renewed petition and alleges that the application was deposited in Express Mail service on December 31, 2008. Applicant has filed the appropriate documentary and corroborating evidence demonstrating that December 31, 2008, was the date the correspondence was deposited Express Mail Post Office to Addressee. Further to this, the United States Postal Service ("USPS") Track & Confirm confirms that the application was accepted by the USPS on December 31, 2008.

In view of the above, the petition is **granted**. No fee has been charged and none is due.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to December 31, 2008, and for the mailing of a Corrected Filing Receipt.

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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PALO ALTO CA 94306

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| In re Application of | : | DECISION VACATING PRIOR |
| Lei et al. | : | DECISION AND DISMISSING |
| Application No. 12/319,224 | : | PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This Decision VACATES the prior decision on Petition mailed July 9, 2009, and dismisses the "Renewed Petition to Accord Filing Date Under 37 C.F.R. § 1.10(c)," filed June 29, 2009.

The Decision on Petition mailed July 9, 2009 is hereby VACATED.

The Petition to Accord Filing Date Under 37 C.F.R. § 1.10(c) is DISMISSED.

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]", and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application.

The April 6, 2009 petition

Applicant filed a petition on April 6, 2009, wherein Applicant alleged that the application was deposited in Express Mail service on December 31, 2008. In support of this assertion, Applicant filed copies of an Express Mail Label, No. EV533740290US, date-stamped by the United States Postal Service ("USPS") on December 31, 2008, along with a return receipt postcard listing as filed on December 31, 2008 in Express Mail Label No. EV533740290US a 1 pg. Utility Patent Application Transmittal, 3 pgs.; Declaration, 28 pgs. Specification (including Abstract); 20 shts. Figures, and a Self-Addressed Return Postcard.

Applicant averred in the petition that the "[t]he USPTO label attached to the postcard incorrectly indicates the filing date as January 3, 2009. A copy of the postcard is attached herewith as Exhibit B."

The April 27, 2009 Decision Dismissing the petition

The petition was dismissed in a Decision mailed April 27, 2009. A review of the petition papers and of the copy of the postcard identified as Exhibit B revealed that the copy of the postcard did not contain any notation from this Office.

A review of the application file revealed that application papers filed on January 3, 2009, reveal that the application papers, including the Utility Patent Application Transmittal, did not bear an Express Mail Label Number. Applicant had thus failed to demonstrate compliance with 37 CFR 1.10(c).

The present renewed petition

Applicant files the present renewed petition and includes a copy of the return receipt postcard which bears the date-stamp from this Office indicating receipt of the application papers on January 3, 2009. Applicant avers that the copy of the postcard was filed as the cover document securely attached to the application papers.

Applicable Law, Rules and MPEP

Section (c) of 37 CFR 1.10 provides that

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The MPEP 503 provides

"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." (Emphasis supplied).

Analysis/conclusion

Applicant is advised that the return-receipt postcard does not constitute the paper(s) or fee(s) that constitute the correspondence for purposes of obtaining an application filing date pursuant to 37 CFR 1.10. The return-receipt postcard is not retained by this Office, but is returned to the Applicant. The postcard's only purpose is to provide an applicant with an acknowledgment that this Office received the application papers filed with the Office. Because this Office does not retain the postcard, the postcard is not a part of the paper or fee(s) that constitute the correspondence filed with the USPTO as contemplated by 37 CFR 1.10; it is returned to the applicant. As such, the return-receipt postcard fails to demonstrate compliance with 37 CFR 1.10.

*After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.* Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

**The application file is being referred to the Office of Patent Application Processing for correction of the filing date to January 3, 2009.**

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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| In re Application of | : | |
| Lei et al. | : | |
| Application No. 12/319,224 | : | DECISION DENYING PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This is a decision in reference to the "REQUEST FOR RECONSIDERATION OF RENEWED PETITION TO ACCORD FILING DATE UNDER 37 § CFR 1.10(c)," filed January 11, 2010, requesting that the above-identified application be accorded a filing date of December 31, 2008, rather than the presently accorded filing date of January 3, 2009.

The Petition is DENIED.[1]

## BACKGROUND

On January 3, 2008 the application was filed.

On April 6, 2009, Applicants filed a petition under 37 CFR 1.10(c), wherein Applicants alleged that the application was deposited in Express Mail service on December 31, 2008.

On April 27, 2009, the petition was dismissed.

On June 29, 2009 a renewed petition was filed.

On July 9, 2008 the renewed petition was granted; however, on November 10, 2009 the decision was vacated and the petition was dismissed.

### The present request for reconsideration

Applicants file the present request for reconsideration and provide that four patent applications were present in the same Express Mail Envelope that was deposited with the United States Postal Service on December 31, 2008. Three of the four applications, including the above-identified

[1] This is a final agency action. See, MPEP 1002.02.

application, received a filing date of January 3, 2009; however, one application present in the Express Mail Envelope received a filing date of December 31, 2008. Applicants submit a copy of the return-receipt postcard from this Office, and the stamped Express Mail Certificate, and aver that the date-stamp from this Office establishes a filing date of December 31, 2008 for one of the applications present in the same express mail envelope as the subject application. Applicants also note that the Express Mail Number listed on the postcard of the application which received the filing date of December 31, 2008, is identical to the Express Mail number listed on the postcard in the present application. Applicants submit that given that one of the applications received a filing date of December 31, 2008, that this Office accept this as evidence that the above patent application was in fact deposited in Express Mail Service on December 31, 2008.

STATUTES AND REGULATIONS

35 U.S.C. 21(a) states:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

37 C.F.R. 1.10 Filing of correspondence by "Express Mail," states

> (a)...
>
> (b)...
>
> (c). Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (i) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> **(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and**

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit...

(emphasis added)

OPINION

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

The difficulty caused by an applicants failure to place an Express Mail label number on a paper is clearly illustrated by this case. Since no Express Mail label number was placed on the application papers prior to mailing, the USPTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the application was filed on December 31, 2008.

Simply put, in view of the USPTO regulations and policies, there is no basis to consider a document which itemized the application papers and was returned to the applicants a cover sheet, which is part of the application papers, rather than a postcard, which is not part of the correspondence filed in the Office. As no document containing the Express Mail label is located among the papers in the official IFW file, the requirements of 37 CFR 1.10(c) have not been satisfied.

MPEP 513(III) states, in pertinent part, that to be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached.

A similar situation was addressed by the U.S. District Court for the Eastern District of Virginia in the recent case of *O'Shannessy v. Doll.*[2] In *O'Shannessy,* applicant asserted that the Express Mail number, placed on the return receipt postcard, should be considered to be present on the application papers as deposited in the USPTO. In a memorandum opinion, the court agreed with the USPTO's interpretation that the return receipt postcard was not part of "the paper(s) or fee(s) that constitute the correspondence."[3] In pertinent part, the *O'Shannessy* court stated:

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[2] Action No. 1:08cv01 (May 20, 2008).

[3] Id.

> [I]t is clear that a return receipt postcard serves no purposes other than to provide an applicant with an acknowledgement that the USPTO received his or her application documents and fees filed with the USPTO by utilizing the USPS's "Express Mail" service. Because the USPTO does not retain the postcard, but rather returns it to the applicant, the postcard is not part of "the paper(s) or fee(s) that constitute the correspondence" filed with the agency; its returned to the applicant.[4]

The evidence and arguments considered have been carefully considered, but are not persuasive of Applicants' entitlement to a filing date of December 31, 2008. In order to obtain a filing date under 37 CFR 1.10, however, petitioners must establish to the satisfaction of the Director that the original application papers were properly deposited in Express Mail Service on December 31, 2008. In this case, Applicants have not provided sufficient evidence to support their entitlement to a filing date of December 31, 2008. Accordingly, Applicants have failed to meet their burden.

The previous decision has been reconsidered as requested. However, the petition is denied.

The application file is being referred to the Office of Patent Application Processing for further processing with the presently accorded filing date of January 3, 2009.

Telephone inquiries concerning this matter should be directed attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

[4] Id.

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|---|---|---|
| In re Application of | : | |
| Lei et al. | : | |
| Application No. 12/319225 | : | ON PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This Decision is in response to the "Petition to Accord Filing Date Under 37 CFR § 1.10(c)," filed April 3, 2009.

The petition is dismissed.

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]", and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application.

The present petition

Applicant alleges that the application was deposited in Express Mail service on December 31, 2008. In support of this assertion, Applicant files copies of an Express Mail Label, No. EV533740290US, date-stamped by the United States Postal Service ("USPS") on December 31, 2008, along with a return receipt postcard listing as filed on December 31, 2008 in Express Mail Label No. EV533740290US a 1 pg. Utility Patent Application Transmittal, 3 pgs.; Declaration, 28 pgs. Specification (including Abstract); 20 shts. Figures, and a Self-Addressed Return Postcard.

Applicant avers in the petition that the "[t]he USPTO label attached to the postcard incorrectly indicates the filing date as January 3, 2009. A copy of the postcard is attached herewith as Exhibit B."

A review of the petition papers and of the copy of the postcard identified as Exhibit B reveals that the copy of the postcard does not contain any notation or USPTO label from this Office.

Review of the application file

A review of the application file reveals that application papers filed on January 3, 2009, reveal that the application papers, including the Utility Patent Application Transmittal, do not bear an Express Mail Label Number.

Applicable Law, Rules and MPEP

Section (c) of 37 CFR 1.10 provides that

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The MPEP 503 provides

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.

Analysis and conclusion

A review of the application papers filed on January 3, 2009, reveal that the application papers, including the Utility Patent Application Transmittal, do not bear an Express Mail Label Number. A review of the petition papers and of the copy of the postcard identified as Exhibit B reveals that the copy of the postcard does not contain any notation from this Office. Applicant has thus failed to demonstrate compliance with 37 CFR 1.10(c).

The petition is dismissed without prejudice. Applicant should file a renewed petition and include the necessary showing.

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

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

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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JUL 09 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Lei et al. | : | |
| Application No. 12/319225 | : | ON PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This Decision is in response to the "Renewed Petition to Accord Filing Date Under 37 CFR § 1.10(c)," filed June 29, 2009.

The petition is **granted**.

Applicant files the present renewed petition and alleges that the application was deposited in Express Mail service on December 31, 2008. Applicant has filed the appropriate documentary and corroborating evidence demonstrating that December 31, 2008, was the date the correspondence was deposited Express Mail Post Office to Addressee. Further to this, the United States Postal Service ("USPS") Track & Confirm confirms that the application was accepted by the USPS on December 31, 2008.

In view of the above, the petition is **granted**. No fee has been charged and none is due.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to December 31, 2008, and for the mailing of a Corrected Filing Receipt.

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
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2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

**COPY MAILED**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | DECISION VACATING PRIOR |
| Lei et al. | : | DECISION AND DISMISSING |
| Application No. 12/319,225 | : | PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5002-US | : | |

This Decision VACATES the prior decision on Petition mailed July 9, 2009, and dismisses the "Renewed Petition to Accord Filing Date Under 37 C.F.R. § 1.10(c)," filed June 29, 2009.

The Decision on Petition mailed July 9, 2009 is hereby VACATED.

The Petition to Accord Filing Date Under 37 C.F.R. § 1.10(c) is DISMISSED.

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]", and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application.

The April 6, 2009 petition

Applicant filed a petition on April 6, 2009, wherein Applicant alleged that the application was deposited in Express Mail service on December 31, 2008. In support of this assertion, Applicant filed copies of an Express Mail Label, No. EV533740290US, date-stamped by the United States Postal Service ("USPS") on December 31, 2008, along with a return receipt postcard listing as filed on December 31, 2008 in Express Mail Label No. EV533740290US a 1 pg. Utility Patent Application Transmittal, 3 pgs.; Declaration, 28 pgs. Specification (including Abstract); 20 shts. Figures, and a Self-Addressed Return Postcard.

Applicant averred in the petition that the "[t]he USPTO label attached to the postcard incorrectly indicates the filing date as January 3, 2009. A copy of the postcard is attached herewith as Exhibit B."

The April 27, 2009 Decision Dismissing the petition

The petition was dismissed in a Decision mailed April 27, 2009. A review of the petition papers and of the copy of the postcard identified as Exhibit B revealed that the copy of the postcard did not contain any notation from this Office.

A review of the application file revealed that application papers filed on January 3, 2009, reveal that the application papers, including the Utility Patent Application Transmittal, did not bear an Express Mail Label Number. Applicant had thus failed to demonstrate compliance with 37 CFR 1.10(c).

The present renewed petition

Applicant files the present renewed petition and includes a copy of the return receipt postcard which bears the date-stamp from this Office indicating receipt of the application papers on January 3, 2009. Applicant avers that the copy of the postcard was filed as the cover document securely attached to the application papers.

Applicable Law, Rules and MPEP

Section (c) of 37 CFR 1.10 provides that

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The MPEP 503 provides

"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." (Emphasis supplied).

Analysis/conclusion

Applicant is advised that the return-receipt postcard does not constitute the paper(s) or fee(s) that constitute the correspondence for purposes of obtaining an application filing date pursuant to 37 CFR 1.10. The return-receipt postcard is not retained by this Office, but is returned to the Applicant. The postcard's only purpose is to provide an applicant with an acknowledgment that this Office received the application papers filed with the Office. Because this Office does not retain the postcard, the postcard is not a part of the paper or fee(s) that constitute the correspondence filed with the USPTO as contemplated by 37 CFR 1.10; it is returned to the applicant. As such, the return-receipt postcard fails to demonstrate compliance with 37 CFR 1.10.

*After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.* Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

**The application file is being referred to the Office of Patent Application Processing for correction of the filing date to January 3, 2009.**

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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PALO ALTO CA 94306

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JUN 01 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Lei et al. | : | |
| Application No. 12/319,225 | : | DECISION DENYING PETITION |
| Filing or 371(c) Date: 01/03/2009 | : | |
| Attorney Docket Number: | : | |
| 100544-5001-US | : | |

This is a decision in reference to the "REQUEST FOR RECONSIDERATION OF RENEWED PETITION TO ACCORD FILING DATE UNDER 37 § CFR 1.10(c)," filed January 11, 2010, requesting that the above-identified application be accorded a filing date of December 31, 2008, rather than the presently accorded filing date of January 3, 2009.

The Petition is DENIED.[1]

## BACKGROUND

On January 3, 2008 the application was filed.

On April 3, 2009, Applicants filed a petition under 37 CFR 1.10(c), wherein Applicants alleged that the application was deposited in Express Mail service on December 31, 2008.

On April 27, 2009, the petition was dismissed.

On June 29, 2009 a renewed petition was filed.

On July 9, 2009 the renewed petition was granted; however, on November 10, 2009 the decision was vacated and the petition was dismissed.

### The present request for reconsideration

Applicants file the present request for reconsideration and provide that four patent applications were present in the same Express Mail Envelope that was deposited with the United States Postal Service on December 31, 2008. Three of the four applications, including the above-identified

[1] This is a final agency action. See, MPEP 1002.02.

application, received a filing date of January 3, 2009; however, one application present in the Express Mail Envelope received a filing date of December 31, 2008. Applicants submit a copy of the return-receipt postcard from this Office, and the stamped Express Mail Certificate, and aver that the date-stamp from this Office establishes a filing date of December 31, 2008 for one of the applications present in the same express mail envelope as the subject application. Applicants also notes that the Express Mail Number listed on the postcard of the application which received the filing date of December 31, 2008, is identical to the Express Mail number listed on the postcard in the present application. Applicants submit that given that one of the applications received a filing date of December 31, 2008, that this Office accept this as evidence that the above patent application was in fact deposited in Express Mail Service on December 31, 2008.

STATUTES AND REGULATIONS

35 U.S.C. 21(a) states:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

37 C.F.R. 1.10 Filing of correspondence by "Express Mail," states

> (a)...
>
> (b)...
>
> (c). Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (i) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> **(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and**

> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit...
>
> (emphasis added)

OPINION

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

The difficulty caused by an applicants failure to place an Express Mail label number on a paper is clearly illustrated by this case. Since no Express Mail label number was placed on the application papers prior to mailing, the USPTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the application was filed on December 31, 2008.

Simply put, in view of the USPTO regulations and policies, there is no basis to consider a document which itemized the application papers and was returned to the applicants a cover sheet, which is part of the application papers, rather than a postcard, which is not part of the correspondence filed in the Office. As no document containing the Express Mail label is located among the papers in the official IFW file, the requirements of 37 CFR 1.10(c) have not been satisfied.

MPEP 513(III) states, in pertinent part, that to be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached.

A similar situation was addressed by the U.S. District Court for the Eastern District of Virginia in the recent case of *O'Shannessy v. Doll.*[2] In *O'Shannessy,* applicant asserted that the Express Mail number, placed on the return receipt postcard, should be considered to be present on the application papers as deposited in the USPTO. In a memorandum opinion, the court agreed with the USPTO's interpretation that the return receipt postcard was not part of "the paper(s) or fee(s) that constitute the corresponaence."[3] In pertinent part, the *O'Shannessy* court stated:

---

[2] Action No. 1:08cv01 (May 20, 2008).

[3] Id.

> [I]t is clear that a return receipt postcard serves no purposes other than to provide an applicant with an acknowledgement that the USPTO received his or her application documents and fees filed with the USPTO by utilizing the USPS's "Express Mail" service. Because the USPTO does not retain the postcard, but rather returns it to the applicant, the postcard is not part of "the paper(s) or fee(s) that constitute the correspondence" filed with the agency; its returned to the applicant.[4]

The evidence and arguments considered have been carefully considered, but are not persuasive of Applicants' entitlement to a filing date of December 31, 2008. In order to obtain a filing date under 37 CFR 1.10, however, petitioners must establish to the satisfaction of the Director that the original application papers were properly deposited in Express Mail Service on December 31, 2008. In this case, Applicants have not provided sufficient evidence to support their entitlement to a filing date of December 31, 2008. Accordingly, Applicants have failed to meet their burden.

The previous decision has been reconsidered as requested. However, the petition is denied.

The application file is being referred to the Office of Patent Application Processing for further processing with the presently accorded filing date of January 3, 2009.

Telephone inquiries concerning this matter should be directed attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

[4] Id.

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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**PETER A. SHADDOCK II**
**BOWMAN GREEN HAMPTON & KELLY, PLLC**
**SUITE 201**
**501 INDEPENDENCE PARKWAY**
**CHESAPEAKE VA 23320-5173**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Robert E. Hudson | : | |
| Application No. 12/319,269 | : | ON PETITION |
| Filed: January 5, 2009 | : | |
| Attorney Docket No. 3330-001 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 5, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant that he is 65 years of age, and is also accompanied with a copy of applicant's Virginia driver's license. It is noted that the date of birth given in applicant's statement differs from the date of birth recorded on the submitted copy of applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 2841 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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PO BOX 55630
PHOENIX AZ 85078

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**OFFICE OF PETITIONS**

~~In re Application of :~~
~~Roman et al. :~~
~~Application No. 11/975588 :~~
~~Filing or 371(c) Date: 10/18/2007 :~~
~~Attorney Docket Number: :~~
~~1152-P-8A :~~

In re Application of :
Roman et al. :
Application No. 12/319288 :
Filing or 371(c) Date: 10/18/2007 :
Attorney Docket Number: : DECISION
1152-P-8 : ON PETITION

This is a decision on the "Petition Under §1. 181 to Separate Patent Application into two Separate Applications," filed November 14, 2008, requesting above-identified application, attorney docket number 1152-P-8, be accorded a filing date of October 18, 2008. The petition is treated under 37 CFR 1.181 for application no. 11/975588, and the petition is properly treated under 37 CFR 1.53 for application no. 12/319288.

The petition under 37 CFR 1.181 is granted.

The petition under 37 CFR 1.53 is granted.

On October 18, 2008, Applicant filed two applications, attorney docket numbers 1152-P-8, and 1152-P-8A. Both applications were filed using one Express Mail envelope; Express Mail Mailing Label number EQ759 378 613US. Both applications were processed under application serial number 11/975588, using attorney docket numbers 1152-P-8A, and accorded the filing date of October 18, 2008.

Applicant files present petition and requests that the Office separate and accord a serial number and filing date of October 18, 2008, to the application with attorney docket numbers 1152-P-8. In support of this request, Applicant files a copy of his return-receipt postcard wherein this Office acknowledged receipt of both application 1152-P-8, and 1152-P-8A.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

No petition fee has been charged and none is due.

The application with attorney docket number 1152-P-8 has been accorded application serial number 12/319,288.

Application number 12/319,288 is being forwarded to the Office of Patent Application Processing, Customer Corrections,

1) to accord the application a filing date of October 18, 2008, and for processing of the application in the normal course of business.

1a) it is noted that no fees were submitted with the filing of application number 12/319,288

2) for processing of both applications in the normal course of business.

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

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

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

JOSEPH TSIYONI
1415 NORTH ROSE STREET
TEMPE AZ 85281

Applicant: Tsiyoni
Application No. 12/319,323
Filed: January 6, 2009
For: Internet Trading
Pub. No.: US 2009/0182632 A1
Pub. Date: July 16, 2009

: Decision on
: Petition

This is a decision in response to the Nonpublication Request received on June 8, 2009 and the petition received on August 27, 2009 requesting that the application be removed from the Office website, which are being treated as a request for information.

Applicant's request is essentially a petition for suspension or waiver of the rules under 37 CFR 1.183 and that petition requires a petition fee (currently $400). The rules and statutory provisions governing the operations of the USPTO require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The petition fee $400 required for a petition under 37 CFR 1.183 has not been paid.

Applicant's request cannot be granted.

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. .

To avoid pre-grant publication of a patent application, applicant must certify that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing. See 35 U.S.C. 122(b)(2)(B)(I) and 37 CFR 1.213. Applicant did not file the application with a nonpublication request in compliance with the statute and the application published on July 16, 2009 as US 2009/0182632 A1.

Applicant did not file the application with a nonpublication request and the application is not subject to a secrecy order, so therefore the application was properly published in accordance with established procedure. The Office has no statutory authority to withdraw a properly published patent application publication.

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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Paper No.

CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI MI 48375

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MAR 30 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kunimichi Hetano | : | |
| Application No. 12/319,371 | : | DECISION ON PETITION |
| Filed: January 5, 2009 | : | PURSUANT TO |
| Attorney Docket No.: OCB-279-A | : | 37 C.F.R. § 1.182 |
| Title: BRAKING SYSTEM AND | : | |
| AUTOMATIC BRAKE ACTUATOR | : | |

This is a decision on the petition filed February 12, 2009, requesting that the above-identified application, including pages 1 and 2 of the specification, be accorded a filing date of January 5, 2009 as part of the original disclosure.

This petition is **DISMISSED**.

The application was deposited on January 5, 2009. However, on February 3, 2009, the Office of Data Management mailed a "Notice to File Missing Parts of Nonprovisional Application Papers" (notice), stating that the application had been accorded a filing date of January 5, 2009, and advising applicants, *inter alia*, that pages 1 and 2 of the specification appeared to have been omitted. The notice set a two-month period for reply.

In response, on February 12, 2009, Petitioner filed this petition. The petition is further accompanied by, *inter alia*, a copy of pages 1 and 2 of the specification, two affidavits, and a *partially redacted* copy of Petitioner's postcard receipt acknowledging receipt of "Specification, Claims, Abstract, Drawings (4)" in the United States Patent and Trademark Office (Office) on January 5, 2009. Petitioner requests that pages 1

and 2 of the specification be accorded a filing date of January 5, 2009.

It is noted that 15 pages of specification,[1] three pages of claims,[2] and a one-page abstract[3] have been located in the electronic file.

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 that *itemizes and properly identifies* the papers that 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.

MPEP 503 states, *in pertinent part*:

> RETURN POSTCARD
> If a receipt of 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. 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.
> 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

1 The pages are numbered 3-17.
2 The pages are numbered 18-20.
3 The page is numbered 21.

> 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.
>
> (Emphasis added).

As set forth above, the postcard lists the inclusion of a "[s]pecification," and does not indicate the number of pages of specification that were included. A postcard cannot serve as prime facie evidence of receipt of an item that has not been adequately itemized thereon. Petitioner's **postcard fails to itemize the number of pages of specification that were included on filing, and as such, Petitioner cannot rely on the same to establish that pages 1 and 2 of the specification were provided on filing**.

Put another way, the degree on which an applicant may rely on a postcard receipt to establish receipt of a particular item depends on the specificity of the itemization contained thereon. The postcard fails to contain a proper and adequate itemization of the papers that were presented on filing, and therefore, cannot be used to establish that specific pages were included on initial deposit.

It follows that **the record does not support a finding that pages 1 and 2 of the specification were present on initial deposit**.

It is noted in passing that Petitioner has explained the practice that is used in his office regarding the preparation of applications,[4] and has indicated that both he and a secretary at his firm recall placing 21 pages of specification in the plastic

4 Petition, page 2.

sleeve that was placed into an envelope and mailed to the Office on January 5, 2009.[5] However, the PTO file is the official record of the papers originally filed in this application, and a review of the official file reveals that pages 1 and 2 of the specification were not included on filing. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Neither Petitioner's business practices nor the memories of a routine mailing practice which occurred more than one month prior is more persuasive than the PTO file.

It is further noted in passing that Petitioner has alleged that the transmittal sheet that was presented on filing contains an indication that "Specification [Total Pages 21]" were included on filing. However, neither the rules nor Office procedure sets forth a method by which a transmittal sheet may serve as evidence of receipt in the PTO of the items listed thereon.

Receipt of the $400 petition fee is acknowledged. This petition fee will not be refunded, as this petition was not necessitated by any error on the part of the Office.

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. **OPAP will NOT enter pages 1-2 of the specification, received concurrently with this petition on February 12, 2009.**

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.[6]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

5 See Carrier and Patterson affidavits, submitted with this petition, which use the word "specification" to refer collectively to the specification, claims, and abstract.

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

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Paper No.

CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI MI 48375

**COPY MAILED**

AUG 18 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kunimichi Hetano | : | |
| Application No. 12/319,371 | : | DECISION ON PETITION |
| Filed: January 5, 2009 | : | PURSUANT TO |
| Attorney Docket No.: OCB-279-A | : | 37 C.F.R. § 1.57(a) |
| Title: BRAKING SYSTEM AND | : | |
| AUTOMATIC BRAKE ACTUATOR | : | |

This is in response to the petition pursuant to 37 C.F.R. § 1.57(a) filed on April 3, 2009, requesting that the above-identified application, including pages 1 and 2 of the specification, be accorded a filing date of January 5, 2009 as part of the original disclosure.

This petition is **DISMISSED AS UNNECESSARY.**

The application was deposited on January 5, 2009. However, on February 3, 2009, the Office of Data Management mailed a "Notice to File Missing Parts of Nonprovisional Application Papers" (notice), stating that the application had been accorded a filing date of January 5, 2009, and advising applicants, *inter alia*, that pages 1 and 2 of the specification appeared to have been omitted. The notice set a two-month period for reply.

In response, on February 12, 2009, Petitioner filed a petition pursuant to 37 C.F.R. § 1.182. The petition was dismissed via the mailing of a decision on March 30, 2009, which indicated, *in pertinent part*, the postcard that Petitioner had submitted was not sufficiently itemized so as to support his assertion that pages 1 and 2 of the specification had been included on original deposit.

With this petition pursuant to 37 C.F.R. § 1.57(a), Petitioner has indicated that the Application Data Sheet that was present on filing contains a priority claim to Japanese application number 2008-30040, filed on February 12, 2008.

Rule 1.57(a) provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s).

On September 21, 2004, Rule § 1.57(a) was added to read, *in pertinent part*:

> 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).

M.P.E.P § 201.06(c)(IV)(A) sets forth, *in pertinent part*:

> If a continuation or divisional application as originally filed on or after September 21, 2004 does not include an explicit incorporation by reference statement and is entitled to a filing date despite the inadvertent omission of a portion of the prior application(s), applicant may be permitted to add the omitted material by way of an amendment under 37 CFR 1.57(a). Such an amendment must be made within any time period set by the Office. See 37 CFR 1.57(a)(1).

With this petition, Petitioner has included the petition fee. It is noted that copies of pages 1 and 2 of the specification were submitted with this petition.

This petition is dismissed because the application as filed was entitled to a filing date even if the complete specification was not present in the application. See MPEP § 601.01(d)(I). Thus, a petition under Rule 1.57(a) is not the proper vehicle to achieve Petitioner's goal.

Since a petition is not required, the amendment filed on April 3, 2009 to include the inadvertently omitted pages of the specification will be considered by the Examiner. Please note that this amendment must comply with 37 C.F.R. §§ 1.57(a) and 1.121. See MPEP § 201.17.

Entry if the amendment filed on April 3, 2009 will be determined by the Examiner. As such, the Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on April 3, 2009 can be processed in due course.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,423 | 01/07/2009 | Yasunori Niiyama | 4041K-000433 | 9094 |

7590 11/20/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3748 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/20/2009 | PAPER |

# DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Repln. Ref: 11/20/2009 NFARMER 0015113330
DRN:080750 Name/Number:12319423
FC: 9204 $540.00 CR

Adjustment date: 11/20/2009 NFARMER
01/09/2009 SSITHIB1 00000022 12319423
02 FC:1111 -540.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,458 | 01/06/2009 | Takuya Usami | 4041J-001547 | 4469 |

7590 03/01/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

| EXAMINER |
|---|
| KOONTZ, TAMMY J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3974 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/01/2010 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

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MARK LEVY
HINMAN, HOWARD & KATTELL, LLP
80 EXCHANGE STREET
P.O. BOX 5250
BINGHAMTON, NY 13901

**COPY MAILED**

FEB 1 8 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Margaret M. Spolar | : | |
| Application No. 12/319,506 | : | DECISION ON PETITION |
| Filed: January 7, 2006 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. SPOLAR-104 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 7, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

The $130 fee submitted with the petition on January 7, 2009 is considered unnecessary since there is no fee attached for a Petition to make special based on applicant's age petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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 further processing. This application will be accorded "special" once pre-examination processing is complete.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**EUGENE R. WORLEY**
**11 BOWDITCH**
**IRVINE CA 92620**

COPY MAILED
JAN 25 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Eugene R. WORLEY | : | |
| Application No. 12/319,573 | : | DECISION ON PETITION |
| Filed: January 09, 2009 | : | |
| Attorney Docket No. | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed February 05, 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 April 06, 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 abstract, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of February 05, 2009 is accepted as having been unintentionally delayed.

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

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Application of
Gerald Jay Sanders, et al.
Application No. 12/319,614
Filed: January 9, 2009
Attorney Docket No. 37516-509001US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 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 Boris A. Matvenko on behalf of all attorneys of record who are associated with customer No. 35437. All attorneys/agents associated with the Customer Number 35437 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no pending Office actions at the present time.

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

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

cc: GERALD J. SANDERS – CEO
EZC MEDICAL LLC
19991 7TH STREET EAST
SONOMA, CA 95476

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 |
|---|---|---|---|
| 12/319,614 | 01/09/2009 | Gerald Jay Sanders | 37516-509001US |

**CONFIRMATION NO. 4183**

**POWER OF ATTORNEY NOTICE**

35437
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON, MA 02111

*OC000000042278758*

Date Mailed: 06/28/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/13/2010.

- 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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**THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP**
**600 GALLERIA PARKWAY, S.E.**
**STE 1500**
**ATLANTA GA 30339-5994**

COPY MAILED
JAN 29 2010

In re Application of :
Farrokh Ayazi et al. :
Application No. 12/319,650 :
Filed: January 10, 2009 :
Attorney Docket No. 062012-1820 :

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a new OATH or DECLARATION (37 CFR 1.63) and a $65 Surcharge late filing fee in a timely manner in reply to the Notice to File Missing Parts under 37 CFR 1.53(b) mailed March 10, 2009, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 11, 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 the required fees, (2) the new OATH or DECLARATION (37 CFR 1.63), (3) the petition fee of $810; and (4) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts mailed March 10, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

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

David Bucci
Petitions Examiner
Office of Petitions

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**REAL D – PATENT DEPARTMENT**
**BY BAKER & MCKENZIE LLP**
**2001 ROSS AVENUE, SUITE 2300**
**DALLAS TX 75201**

**COPY MAILED**

APR 01 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Cowan et al. | : | |
| Application No. 12/319,688 | : | ON PETITION |
| Filed: January 9, 2009 | : | |
| Attorney Docket No. 95194936.074101 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 9, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes statements by the applicant's attorney and by the applicant stating that the applicant is 65 years of age. These statements are accompanied with a copy of applicant's United States passport. Accordingly, the above-identified application has been accorded "special" status.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 Processing for further processing in accordance with this decision on petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Steven W. Smyrski, Esq.
Smyrski Law Group, A Professional Corporation
3310 Airport Avenue, SW
Santa Monica, California 90405-6118

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JIANWEI DIAN
3529 STROLL ROAD
PLANO TX 75025

MAILED

MAY 05 2010

OFFICE OF PETITIONS

Applicant: Jianwei Dian
Appl. No.: 12/319,695
Filing Date: January 10, 2009
Title: QUERY BASED OPERATION REALIZATION INTERFACE
Attorney Docket: N/A
Pub. No.:2009/0182732 A1
Pub. Date: July 16, 2009

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(b), received on August 7, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein Fig. 5, was improperly displayed instead of Fig. 4, and in the last sentence of the specification the word "not" was misprinted as "riot".

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 wherein Fig. 5 was published on the front page of the publication instead of Applicants "suggested Figure 4 is not an Office error. While Applicant may suggest a figure to be included on the front page of the publication, the Office may select which drawing is to be published. With respect to the word "not" being misprinted as "riot" may be an Office error, but it is not a material Office error under 37 CFR 1.221(b). The typographical error does not affect the understanding of the application, in that it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope

[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).

of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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**LANGLEY RESEARCH CENTER**
**MAIL STOP 141**
**HAMPTON VA 23681-2199**

**MAILED**

MAR 15 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Klein, Daniel J. | : | |
| Application No. 12/319,710 | : | ON PETITION |
| Filed: January 9, 2009 | : | |
| Attorney Docket No. LAR 17087-1/135352 | : | |

This is a decision on the petition, filed January 7, 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 Notice of Missing Parts of Nonprovisional Application, mailed February 6, 2009, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before April 6, 2009. A Notice of Abandonment was mailed October 16, 2009.

Petitioner states that a timely reply was mailed via certificate of mailing on September 8, 2009. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated September 8, 2009, which would have rendered the reply timely if received, as September 6, 2009 was a Sunday and September 7, 2009 was a Federal Holiday.

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 February 6, 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 on January 7, 2010.

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

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

In re Application of
Rinoud Hanna

Application No. 12319744

Filed: January 12,2009

Attorney Docket No. 1056-RH

: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 12-JAN-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN ERVIN
12527 CAMARERO CT
SAN DIEGO CA 92130

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of
Ervin, et al.
Application No. 12/319,748
Filed: 13 January, 2009
Attorney Docket No. (None)

DECISION ON PETITION

This is a decision on the petition filed on 13 January, 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 C.F.R. §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.

The petition is unsigned.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. And, in particular, Petitioner, *inter alia*, has not as of this writing satisfied the showing of transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings)—e.g., there is no showing of any

transmittal (with a copy of the transmittal letter) of the entire application (description, claims, abstract, drawings) *because* there is no evidence of a diligent search by which to ascertain the reasonably believed to be last known/valid/current address of the non-signing inventor. (*See, generally:* MPEP §409.03, and §409.03(a), et seq. Petitioners always are reminded that, 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)—also, generally, 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.")

Further, Petitioners always are 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 matter of the addressing, diligent effort, and of the materials transmitted to the non-signing inventor must be clarified on any renewed petition.

## BACKGROUND

The record indicates:

The instant application was filed on 13 January, 2009, without, *inter alia*, a fully executed oath/declaration.

The Office did not (immediately) mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the petition was filed on deposit of the application. (The Office did mail a Notice of Missing Parts indicating, *inter alia*, fees due on 11 February, 2009.0

On 113 January, 2009, Petitioner co-inventor John Ervin filed a petition with, *inter alia*, an oath/declaration signed by John Ervin (for himself and on behalf of) but not the non-signing co-inventor Sanjai Sinha (Mr. Sinha)—the statement of Petitioner indicates only an unsuccessful attempt to contact Mr. Sinha, but no evidence of diligent search to determine the last known/reasonably believed to be current/valid address. While there was evidence of transmittal/delivery of the entire application (description, claims, abstract, drawings) there was no indication of delivery or failed delivery—and, again, no demonstration of diligent effort to ascertain the validity of the address represented to be the reasonably believed to be last known/valid/current address(es) used.

Petitioner's showing then similarly must and does fail as to the requirement of proof that the non-signing inventors cannot be reached or refuses to sign the oath or declaration after having been presented with the entire application papers (specification: description, claims and drawings) as to all averred non-signing inventors.

Thus, Petitioner does not seemed 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. Petitioners always are reminded that, 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.")

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

As set forth above, any renewed petition **must** clarify these items.

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

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

JOHN ERVIN
12527 CAMARERO CT
SAN DIEGO CA 92130

COPY MAILED
JUN 15 2009
OFFICE OF PETITIONS

In re Application of
Ervin, et al.
Application No. 12/319,748
Filed: 13 January, 2009
Attorney Docket No. (None)

DECISION ON PETITION

This is a decision on the petition filed on 7 May, 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 C.F.R. §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 appears not to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements.

In particular, Petitioner, *inter alia*, has not as of this writing satisfied the showing of transmittal to the non-signing inventor a copy of the entire application (description, claims, abstract, drawings)—e.g., there is no showing of any transmittal (with a copy of the transmittal letter) of the entire application (description, claims, abstract, drawings) *because* there is no evidence of a diligent search by which to ascertain the reasonably believed to be last known/valid/current address of the non-signing inventor. (*See, generally:* MPEP §409.03, and §409.03(a), et seq.

Petitioners always are reminded that, 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)—also, generally, 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.")

**Further, Petitioners always are 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 matter of satisfying the showing of the diligent effort to ascertain the correct/current/last believed to be valid address to which to transmit the materials to the non-signing inventor must be clarified on any renewed petition.**

## BACKGROUND

The record indicates:

The instant application was filed on 13 January, 2009, without, *inter alia*, a fully executed oath/declaration.

The Office did not (immediately) mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the petition was filed on deposit of the application. (The Office did mail a Notice of Missing Parts indicating, *inter alia*, fees due on 11 February, 2009.0

On 13 January, 2009, Petitioner co-inventor John Ervin filed a petition with, *inter alia*, an oath/declaration signed by John Ervin (for himself and on behalf of) but not the non-signing co-inventor Sanjai Sinha (Mr. Sinha)—the petition was unsigned and therefore was not addressable in its substantive content, though Petitioner *pro se* was directed the proper guidance in the Commentary at MPEP MPEP §409.03, and §409.03(a), et seq. The petition was dismissed on 12 March, 2009.

On 7 May, 2009, Petitioner co-inventor John Ervin filed a petition with, *inter alia*, an oath/declaration signed by John Ervin (for himself and on behalf of) but not the non-signing co-inventor Sanjai Sinha (Mr. Sinha) and indicated unsuccessful mailings to Mr. Sinha (as well as

Email sent but no evidence of receipt response), however, no evidence of diligent effort/search to determine the last known/reasonably believed to be current/valid address. While there was evidence of transmittal/delivery of the entire application (description, claims, abstract, drawings) there was no indication of delivery or failed delivery—and, again, no demonstration of diligent effort to ascertain the validity of the address represented to be the reasonably believed to be last known/valid/current address(es) used. This showing must be satisfied on any renewed petition.

Petitioner's showing then similarly must and does fail as to the requirement of proof that the non-signing inventors cannot be reached or refuses to sign the oath or declaration after having been presented with the entire application papers (specification: description, claims and drawings) as to all averred non-signing inventors.

Thus, again Petitioner does not seemed 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. Petitioners always are reminded that, 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.")

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

As set forth above, any renewed petition **must** clarify these items.

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**.

---

[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.

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 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

[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

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

JOHN ERVIN
12527 CAMARERO CT
SAN DIEGO CA 92130

COPY MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Ervin, et al.
Application No. 12/319,748
Filed: 13 January, 2009
Attorney Docket No. (None)

DECISION ON PETITION

This is a decision on the petition filed on 6 August, 2009, under 37 C.F.R. §1.47.

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

A grantable petition under 37 C.F.R. §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.

*Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record indicates:

The instant application was filed on 13 January, 2009, without, *inter alia*, a fully executed oath/declaration.

The Office did not (immediately) mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the petition was filed on deposit of the application. (The Office did mail a Notice of Missing Parts indicating, *inter alia*, fees due on 11 February, 2009.)

On 13 January, 2009, Petitioner co-inventor John Ervin filed a petition with, *inter alia*, an oath/declaration signed by John Ervin (for himself and on behalf of) but not the non-signing co-inventor Sanjai Sinha (Mr. Sinha)—the petition was unsigned and therefore was not addressable in its substantive content, though Petitioner *pro se* was directed the proper guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq. The petition was dismissed on 12 March, 2009.

On 7 May, 2009, Petitioner co-inventor John Ervin filed a petition with, *inter alia*, an oath/declaration signed by John Ervin (for himself and on behalf of) but not the non-signing co-inventor Sanjai Sinha (Mr. Sinha) and indicated unsuccessful mailings to Mr. Sinha (as well as Email sent but no evidence of receipt response), however, no evidence of diligent effort/search to determine the last known/reasonably believed to be current/valid address. While there was evidence of transmittal/delivery of the entire application (description, claims, abstract, drawings) there was no indication of delivery or failed delivery—and, again, no demonstration of diligent effort to ascertain the validity of the address represented to be the reasonably believed to be last known/valid/current address(es) used. This showing must be satisfied on any renewed petition. Petitioner's showing then failed as to the requirement of proof that the non-signing inventors cannot be reached or refuses to sign the oath or declaration after having been presented with the entire application papers (specification: description, claims and drawings) as to all averred non-signing inventors. Thus, again Petitioner did 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. Petitioners always are reminded that, 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.") The petition was dismissed on 15 June, 2009.

On 6 August, 2009, Petitioner re-advanced his petition with a showing of transmittal of the entire application to Counsel for the non-signing inventor and pointing back to the prior submission demonstrating, *inter alia*, the non-signing inventor's constructive refusal to sign and so compliance with the requirements of a grantable petition under 37 C.F.R. §1.47(a): (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. (Thus, Petitioner sought to satisfy the requirements pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.)

*Petitioners always are 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]

## CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §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.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing 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[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

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

SANJAI SINHA
807 PALOMINO DRIVE/UNIT A
PLEASANTON, CA 94566

**COPY MAILED**

SEP 28 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ervin, et al. | : | COMMUNICATION |
| Application No. 12/319,748 | : | |
| Filed: 13 January, 2009 | : | |
| Attorney Docket No. (None) | : | |

Dear Sanjai Sinha:

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

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

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

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

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

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can neither advise you nor recommend Counsel in this matter.

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

Counsel of Record
(*Pro Se*)
JOHN ERVIN
12527 CAMARERO CT
SAN DIEGO CA 92130

[1] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 2 8 2010

OFFICE OF PETITIONS

**Calvin Lee Kaltsukis**
**369 B. 3rd. St. # 248**
**San Rafael CA 94901**

| | | |
|---|---|---|
| In re Application of | : | |
| Calvin Lee Kaltsukis | : | |
| Application No. 12/319,759 | : | DECISION ON PETITION |
| Filed: January 12, 2009 | : | TO WITHDRAW |
| Attorney Docket No. | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2010.

The request is **DISMISSED AS MOOT**.

A review of the file record indicates that Vanitha M. Elgart is no longer of record in this application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**KRISTOFER E. ELBING**
**187 PELHAM ISLAND ROAD**
**WAYLAND MA 01778**

COPY MAILED

DEC 0 1 2009

OFFICE OF PETITIONS

In re Application of
Lewis et al
Application No. 12/319,817
Filed: January 12, 2009
Attorney Docket No. S0001-009003

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

This is a decision on the petition filed September 8, 2009, which is being treated as a petition 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 the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A copy of an updated Filing Receipt mailed October 8, 2009, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2877 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

**ATTACHMENT** : Copy of updated Filing Receipt mailed October 8, 2009

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 12/319,817 | 01/12/2009 | 2877 | 1220 | S0001-009003 | 12 | 1 |

**CONFIRMATION NO. 2702**

**UPDATED FILING RECEIPT**

26653
KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND, MA 01778

*OC000000038156087*

Date Mailed: 10/08/2009

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

**Applicant(s)**

E. Neil Lewis, Brookeville, MD;
Linda K. Yarlott, Catonsville, MD;
Kenneth S. Haber, Frederick, MD;

**Power of Attorney:**
Kristofer Elbing--34590

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/788,316 02/16/2001 ABN
which claims benefit of 60/183,663 02/18/2000

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/27/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/319,817**

**Projected Publication Date:** 01/14/2010

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Narrow-band spectrometric Measurements

**Preliminary Class**

356

## 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,831 | 01/13/2009 | Kosuke Niimura | 4041K-000434 | 3547 |

7590 02/04/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

| EXAMINER |
|---|
| AHMED, SAMIR ANWAR |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2624 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/04/2010 | PAPER |

# DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Replm. Ref: 02/19/2010 NFARMER [illegible]
[illegible]
[illegible] $540.00 [illegible]

Disbursement date: 02/16/2010 NFARMER
01/14/2009 RALI33 00000004 12319831
02 FC:1111 -540.00 CP



FORM PET651G (Rev. 08/07)

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/319,832 | 01/13/2009 | Chun-Chieh Chang | 09002 | 6139 |

9979 7590 03/04/2009
KRATZ, QUINTOS & HANSON, LLP
Greater Beneficial Union of Pittsburgh Building
4232 Brownsville Road Suite308
Pittsburgh, PA 15227

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1795 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/04/2009 | PAPER |

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

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

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CST

3-4-09

| | | |
|---|---|---|
| In re application of<br>Chun-Chieh Chang et al<br>Serial No. 12/319,832<br>Filed: January 13, 2009<br>For: CATHODE MATERIAL FOR LI-ION BATTERY APPLICATIONS | :<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION TO MAKE SPECIAL |

This is a decision on the petition filed on January 13, 2009 to make the above-identified application special based on materially contributing to the more efficient utilization and conservation of energy.

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

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection VI (energy) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web.

Furthermore, the application, at the time of filing, was not complete and in condition for examination. Note, specifically, the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION mailed on February 9, 2009, which indicates that the application was not in condition for examination at the time of filing.
MPEP 708.02(a), section VIII further states:

> The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (subsection II above) does not apply to applications that are not in condition for examination on filing.

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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KRATZ QUINTOS & HANSON LLP
GREATER BENEFICIAL UNION OF PITTSBURGH BUILDING
4232 BROWNSVILLE ROAD SUITE 308
PITTSBURGH, PA 15227

MAILED

MAR 04 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,629,084 | : | |
| Issue Date: September 8, 2009 | : | |
| Application No. 12/319,832 | : | NOTICE |
| Filed: January 13, 2009 | : | |
| Attorney Docket No. 09002 | | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**DAVIDSON, DAVIDSON & KAPPEL, LLC**
**485 7TH AVENUE**
**14TH FLOOR**
**NEW YORK, NY 10018**

COPY MAILED
MAR 01 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Lecomte et al. | : | |
| Application No. 12/319,861 | : | DECISION ON PETITION |
| Filed: January 13, 2009 | : | |
| Attorney Docket No. 569.1041 | : | |

This is a decision on the petition, filed November 20, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED AS MOOT**.

This application was held abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application mailed February 6, 2009. A Notice of Abandonment was mailed on October 16, 2009.

A review of the written record indicates that a Notice to File Missing Parts of Nonprovisional Application was mailed on February 6, 2009. Petitioner filed a reply via certificate of mailing on July 6, 2009, which included the following papers: Transmittal letter, copy of the Notice mailed February 6, 2009, three (3) month extension of time, declaration and an abstract. On November 5, 2009, the Office mailed a Letter Regarding a New Notice and/or the Status of the Application disregarding the Notice of Abandonment mailed October 16, 2009, returning the application to pending status. Accordingly, no abandonment exits and the petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment is unnecessary.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 3663 for further examination on the merits.

Chris Bottorff
Petitions Examiner
Office of Petitions

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JUL 20 2009

OFFICE OF PETITIONS

Zobrist Law Group
3 Boar's Head Lane
Charlottesville VA 22903

In re Application of
Fercher, et al.
Application No.: 12/319,888
Filed: January 12, 2009
Attorney Docket No.: 1025-002

ON PETITION

This is in response to the petition under 37 CFR 1.47(b), filed June 18, 2009.

The petition is dismissed.

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

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

This petition lacks items (1), (2), and (5) set forth above.

As to item (1), applicant has failed to establish that the inventors refused to join in the filing of the above-identified application.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The statement of facts of Manfred Nettek does not establish that a complete copy of the application was provided to the inventors.

The inventors must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. When petitioner can show that the inventors received the complete application and that each either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement. Please be specific with dates of pertinent events.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration does not contain the citizenships of the two inventors. The citizenship of each inventor must be included **on the oath or declaration**. As listing the citizenship for each inventor on the declaration is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Furthermore, it is not clear that the declaration has been signed by an authorized representative of the Rule 1.47(b) applicant. As discussed below, M. Nettek International, Inc. has not established it has sufficient proprietary interest in the invention to file the present petition. A proper declaration should be executed by an officer of the M. Nettek International, Inc. (President, Vice-President, Secretary, Treasurer of Chief Executive Officer). **The signer should provide his/her title.** A corporation may authorize any person to sign the application on its behalf. However, if the declaration is not signed by an attorney or officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. MPEP 409.03(b)

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the joint inventors' names and citizenships, executed by an authorized representative of the Rule 1.47(b) applicant is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 petitioner failed to show or provide proof that M. Nettek International, Inc. has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventors and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 23 2009

OFFICE OF PETITIONS

Zobrist Law Group
3 Boar's Head Lane
Charlottesville VA 22903

In re Application of
Fercher, et al.
Application No.: 12/319,888
Filed: January 12, 2009
Attorney Docket No.: 1025-002

ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(b), filed September 4, 2009.

The petition is dismissed.

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

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

This petition lacks items (2), and (5) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. It appears that the second declaration referenced in the renewed petition was not filed on September 4, 2009.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the joint inventors' names and citizenships, executed by an authorized representative of the Rule 1.47(b) applicant is REQUIRED. See MPEP 409.03(b).

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

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

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

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

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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NOV 06 2009

OFFICE OF PETITIONS

Zobrist Law Group
3 Boar's Head Lane
Charlottesville VA 22903

In re Application of
Fercher, et al.
Application No.: 12/319,888
Filed: January 12, 2009
Attorney Docket No.: 1025-002

DECISION GRANTING STATUS UNDER 37 CFR 1.47(B)

This is in response to the renewed petition under 37 CFR 1.47(b), filed October 13, 2009.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors, Josef Fercher and Bernhard Fercher, have 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 Technology Center A.U. 3748 for examination in due course.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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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JOSEF FERCHER
FIRMA BERNHARD FERCHER
ZENTRALBURO
SCHIEBSTATTGASSE 53/4
GRAZ, AUSTRIA A-8010

MAILED

NOV 06 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Fercher, et al. | : | LETTER |
| Application No.: 12/319,888 | : | |
| Filed: January 12, 2009 | : | |
| Attorney Docket No.: 1025-002 | : | |

Dear Mr. Fercher:

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

As a 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: Zobrist Law Group
3 Boar's Head Lane
Charlottesville VA 22903

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KRATZ QUINTOS & HANSON LLP
GREATER BENEFICIAL UNION OF PITTSBURGH BUILDING
4232 BROWNSVILLE ROAD SUITE 308
PITTSBURGH, PA 15227

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MAR 04 2010

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| | | |
|---|---|---|
| In re Patent No. 7,585,593 | : | |
| Issue Date: September 8, 2009 | : | |
| Application No. 12/319,892 | : | NOTICE |
| Filed: January 13, 2009 | : | |
| Attorney Docket No. 09001 | | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**CHOATE, HILL & STEWART, LLP**
**SLOAN-KETTERING INSTITUTE**
**FOR CANCER RESEARCH**
**TWO INTERNATIONAL PLACE**
**BOSTON MA 02110**

COPY MAILED
FEB 12 2010

| | | |
|---|---|---|
| In re Application | : | |
| Chun-Chieh CHANG | : | |
| Application No. 12/319,895 | : | NOTICE |
| Filed: January 13, 2009 | : | |
| Attorney Docket No. 09003 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment*. An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The basic filing fee and surcharge submission filed December 8, 2009, must be itemized as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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**GREATER BENEFICIAL UNION OF**
**PITTSBURGH BUILDING**
**4232 BROWNSVILLE ROAD, SUITE 308**
**PITTSBURGH PA 15227**

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MAR 12 2010

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Chun-Chieh CHANG | : | CORRECTED |
| Application No. 12/319,895 | : | NOTICE |
| Filed: January 13, 2009 | : | |
| Attorney Docket No. 09003 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The fee deficiency submitted December 8, 2009, does not include a proper itemization, as indicated below at Item C (2)(ii) (A), for the basic, search and examination fees.

Itemization required by 37 CFR 1.28(C) (ii) states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Failure to comply with requirements: If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

Accordingly, since the requirements of itemization are not complied with, such failure will be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in 37 CFR 1.17(i).

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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**G.F. GALLINGER**
**7420 MILNER DR.**
**COLORADO SPRINGS CO 80920**

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| In re Application of | : | |
| George A. Henson, III | : | |
| Application No. 12/319,959 | : | ON PETITION |
| Filed: January 14, 2009 | : | |
| Attorney Docket No. JETAIR2.RCR | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 14, 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 by the applicant's attorney that the applicant is 65 years of age. This statement is accompanied with a copy of applicant's Colorado driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 2834 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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| In re Application of | : | |
| EAGLESHAM ET AL. | : | DECISION ON PETITION |
| Application No. 12/320,059 | : | TO MAKE SPECIAL UNDER |
| Filed: January 15, 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 14920.0106 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed December 10, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant

will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

It is noted that the instant petition was not accompanied by the publication fee set forth in 37 CFR 1.18(d) as required. However, petitioner has authorized the charging of any additional fees to Deposit Account No. 19-4293. Accordingly, Deposit Account No. 19-4293 has been charged $300.00 under 37 CFR 1.18(d) for the publication fee as is required by the Notice.

The petition lacks item 5 above for the reason explained below.

The instant invention relates to a "PLASMA-TREATED PHOTOVOLTAIC DEVICES". The instant petition is accompanied by the statement on the basis for special status, i.e., the invention "materially contributes to the development of renewable energy resources or energy conservation . . . specifically, by relating to providing electrical energy from solar sources." As stated in section III of the Notice, applicant must also provide a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets that materiality standard.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Gay Ann Spahn at 571-272-8011.

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

The application is being forwarded to the Technology Center Art Unit 1795 for action in its regular turn.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/320,059 | 01/15/2009 | David Eaglesham | 14920.0106 | 8659 |

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

| EXAMINER |
|---|
| BARTON, JEFFREY THOMAS |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1795 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/16/2010 | PAPER |

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

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

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAR 16 2010

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| In re Application of | : | |
| Eaglesham et al. | : | DECISION ON PETITION |
| Application No. 12/320,059 | : | TO MAKE SPECIAL UNDER |
| Filed: 1/15/2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. **14920.0106** | : | PILOT PROGRAM |

This is a decision on the request for reconsideration, filed 2/11/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Tom Dunn at 571-272-1171.

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

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TANGENT LAW GROUP
601 PENNSYLVANIA AVENUE NW
SUITE 900
WASHINGTON DC 20004

| | | |
|---|---|---|
| In re Application of | : | |
| Elder, et al. | : | |
| Application No. 12/320,066 | : | ON PETITION |
| Filed: January 15, 2009 | : | |
| Attorney Docket No. RP-042 | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 2, 2009.

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

The above-identified application became abandoned for failure to timely file a complete reply in response to the Notice to File Missing Parts of Nonprovisional Application, mailed February 10, 2009. This Notice set an extendable period for reply of two (2) months for applicants to submit an oath or declaration, the surcharge for its late filing, and replacement drawings. On August 3, 2009, applicant filed replacement drawings, the surcharge and a declaration - made timely by obtaining a four month extension of time. However, the drawings were not acceptable as certain figures were not electronically reproducible. Accordingly, the Office mailed a Notice of Incomplete Reply on August 24, 2009. The Notice stated that the period for response continued to run from the mailing date of the February 10th Notice. No further drawings having been received, the application became abandoned on August 11, 2009. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicants have 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

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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. |
|---|---|---|---|---|
| 12/320,263 | 01/22/2009 | Osamu Mizoguchi | NE-71756US | 5001 |

21254 7590 11/19/2009
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

| EXAMINER |
|---|
| BREWSTER, WILLIAM M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2823 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/19/2009 | PAPER |

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

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

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

| | | |
|---|---|---|
| In re Application of | : | |
| Osamu MIZOGUCHI | : | DECISION ON REQUEST TO |
| Application No. 12/320,263 | : | PARTICIPATE IN PATENT |
| Filed: 01 January 2009 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. NE-71756US | : | PROGRAM AND PETITION |
| For: METHOD FOR MANUFACTURING | : | TO MAKE SPECIAL UNDER |
| SEMICONDUCTOR DEVICE | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 06 August 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) - (4), (6), and (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (5).

Regarding the requirement of condition (5), the office action and translation thereof appear to be from JPO application 2009-101577 instead of JPO application 2008-180610 (which contains the allowed claims).

A proper response in this case must include:

(a) a copy of the office action from JPO application 2008-180610

(b) an English language translation of the JPO Office action

(c) a statement that the English translation is accurate

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

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**THE NATH LAW GROUP**
**112 South West Street**
**Alexandria VA 22314**

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MAR 22 2010

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| In re Application of | : | |
| Richard Allen Kohn | : | DECISION ON PETITION |
| Application No. 12/320,333 | : | TO WITHDRAW |
| Filed: January 23, 2009 | : | FROM RECORD |
| Attorney Docket No. 40550UY | : | |

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 14, 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 no outstanding Office action that requires a reply.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ALEXANDRIA VA 22314

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MAR 16 2009
OFFICE OF PETITIONS

In re Application of
Andersen, et al.
Application No. 12/320,348
Filed: 23 January, 2009
Attorney Docket No. 0107/0055

DECISION ON PETITION

This is a decision on the petition filed on 23 January, 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 C.F.R. §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. And, in particular, Petitioner, *inter alia*, has not as of this writing satisfied the showing of the transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at the reasonably believed to be last known/valid/current address of the non-signing inventor. (*See, generally:* MPEP §409.03, and

§409.03(a)—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 to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

*Further, Petitioners always are 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 matter of the materials transmitted to the non-signing inventor must be clarified on any renewed petition—and the clarification must be made over the signature of Petitioner herein.*

## BACKGROUND

The record indicates:

The instant application was filed on 23 January, 2009, without, *inter alia*, a fully executed oath/declaration.

The Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) at that time because a petition was filed on deposit of the application.

On 23 January, 2009, Petitioner Louis Woo (Reg. No. 31,730) filed a petition with, *inter alia*, an oath/declaration signed by Mr. Andersen, Mr. Robert and Mr. Waldron (for themselves and on behalf of) but not the non-signing co-inventor Gary Searle (Mr. Mr. Searle)—with apparent transmittal and delivery of a prior provisional application but no clear indication of transmittal of this entire application (description, claims, abstract, drawings) to the non-signing co-inventor at an address reasonably believed to valid/current/last known to be current. The record must be supported to evidence the basis for averment of the transmittal/delivery of the entire application in this application to the selected/used/ presented last known address. Thus, the Office requests support for the determination (i.e., diligent effort to ascertain the validity) of the address represented to be the reasonably believed to be last known/valid/current address(es) used to transmit/deliver the entire application (description, claims, abstract, drawings)—with copies of transmittal letters. Thus, Petitioners always must work through the requirements of the petition, as set forth at MPEP §409.03, and §409.03(a), et seq. Petitioners always are reminded that, 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" (i.e., . "a *bona fide* attempt") has made in attempting to find or reach the non-signing inventor. (Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.)

As set forth above, any renewed petition **must** clarify these items.

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

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

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

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

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

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

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

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

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

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717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

COPY MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of
Andersen, et al.
Application No. 12/320,348
Filed: 23 January, 2009
Attorney Docket No. 0107/0055

DECISION ON PETITION

This is a decision on the petition filed on 31 March, 2009, under 37 C.F.R. §1.47.

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

A grantable petition under 37 C.F.R. §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's included copy of the 19 March, 2009, letter from Louis Woo to Mr. Searle is construed as Petitioner's required statement of the last known/reasonably believed to be valid address of Mr. Lyons (and a correction of the information previously set forth in the application data sheet, which Petitioner might seek to update) in light of Mr. Searle's acknowledgement of receipt thereof. Petitioner* ***must*** *notify the Office if this is* ***not*** *a correct reading of the statement appearing in the petition.*

*Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record indicates:

The instant application was filed on 23 January, 2009, without, *inter alia*, a fully executed oath/declaration.

The Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) at that time because a petition was filed on deposit of the application.

On 23 January, 2009, Petitioner Louis Woo (Reg. No. 31,730) filed a petition with, *inter alia*, an oath/declaration signed by Mr. Andersen, Mr. Robert and Mr. Waldron (for themselves and on behalf of) but not the non-signing co-inventor Gary Searle (Mr. Mr. Searle)—with apparent transmittal and delivery of a prior provisional application but no clear indication of transmittal of this entire application (description, claims, abstract, drawings) to the non-signing co-inventor at an address reasonably believed to valid/current/last known to be current. The record must be supported to evidence the basis for averment of the transmittal/delivery of the entire application in this application to the selected/used/ presented last known address. Thus, the Office requested support for the determination (i.e., diligent effort to ascertain the validity) of the address represented to be the reasonably believed to be last known/valid/current address(es) used to transmit/deliver the entire application (description, claims, abstract, drawings)—with copies of transmittal letters. (Petitioners always must work through the requirements of the petition, as set forth at MPEP §409.03, and §409.03(a), et seq.) Petitioners always are reminded that, 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" (i.e., . "a *bona fide* attempt") has made in attempting to find or reach the non-signing inventor. The petition was dismissed on 16 March, 2009.

Petitioner filed a petition on 31 March, 2009, and evidenced that the entire application was sent to and received by Mr. Searle (he so acknowledged in an Email) and the thereafter Mr. Searle has failed and so constructively refused to sign/join in the oath/declaration and application.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

## CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §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.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing 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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARY SEARLE
24 BARNSTABLE ROAD
NORFOLK, MA 02056

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MAY 26 2009
OFFICE OF PETITIONS

In re Application of
Andersen, et al.
Application No. 12/320,348
Filed: 23 January, 2009
Attorney Docket No. 0107/0055

COMMUNICATION

Dear Gary Searle:

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

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

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

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

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

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/5/ JG

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

Counsel of Record:
LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

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

Mail Date: 04/28/2010

| | | |
|---|---|---|
| **Applicant** | : Wen Ho Yang | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607934 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/320,375 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/26/2009 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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ALEXANDRIA, VA 22314-1176

Mail Date: 05/25/2010

| | | |
|---|---|---|
| **Applicant** | : Yaw-Huey Lai | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621783 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/320,378 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/26/2009 | : 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

22 APR 2009

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Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE MD 20855

| | |
|---|---|
| In re Application of: | |
| LEININGER, Stefan, et al. | DECISION ON PETITION |
| U.S. Application No.: 12/320,393 | 37 CFR 1.181 |
| Int. Application No.: PCT/EP2007/056404 | |
| Int. Filing Date: 27 June 2007 | |
| Priority Date: 27 July 2006 | |
| Attorney's Docket No.: 7601/19800 | |
| For: COATED SODIUM PERCARBONATE PARTICLES | |

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 To Recognize Application As An Application Filed Under 35 U.S.C. 371" filed 02 March 2009. No petition fee is required.

## BACKGROUND

On 27 June 2007, applicants filed international application PCT/EP2007/056404. The application claimed a priority date of 27 July 2006, and it designated the United States. On 31 January 2008, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for requesting entry into the national stage in the United States and payment of the basic national fee was thirty months from the priority date, i.e., 27 January 2009.

On 26 January 2009, applicants filed materials to initiate the present application. The submission included the following: transmittal letter, general fee authorization, application data sheet (ADS), copy of PCT/EP2007/056404, English translation of PCT/EP2007/056404, preliminary amendment, executed German declaration, English translation of the German declaration, and payment of the basic national fee. The transmittal letter, ADS, and preliminary amendment identified the application as the U.S. national stage of international application PCT/EP2007/056404.

On 18 February 2009, the USPTO issued a filing receipt that did not identify the application as the U.S. national stage of international application PCT/EP2007/056404.

On 02 March 2009, applicant filed the "Petition Under 37 CFR 1.181 To Recognize Application As An Application Filed Under 35 U.S.C. 371" considered herein. The petition argues that the present application is properly treated as the U.S. national stage of PCT/EP2007/056404 filed under 35 U.S.C. 371.

## DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> 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).

The materials filed by applicants to initiate this application clearly identify the application as the U.S. national stage of PCT/EP2007/056404 filed under 35 U.S.C. 371. The first line of the transmittal letter identifies the submission as "Entry into National Stage" for PCT/EP2007/056404, and the letter expressly states that the application is the "U.S. national stage of international application PCT/EP2007/056404." The ADS identifies the application as the U.S. national stage of PCT/EP2007/056404. And the preliminary amendment adds to the specification a statement that the "present application is US national stage of international application PCT/EP2007/056404, which had an international filing date of June 27, 2007." The submission does not include any conflicting instructions that are inconsistent with the intent to enter the national stage under 35 U.S.C. 371. Accordingly, the filed application is properly treated as a U.S. national stage filing under 35 U.S.C. 371, as requested by applicants in the present petition.

The filing receipt mailed 18 February 2009, which did not identify the application as the U.S. national stage of PCT/EP2007/056404, is appropriately vacated.

## CONCLUSION

Applicants' petition to have the present application treated as the U.S. national stage of PCT/EP2007/056404 filed under 35 U.S.C. 371 is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 January 2009.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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March 29, 2010 BC

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|---|---|---|
| In re application of | : | DECISION ON REQUEST TO |
| Stefan Leininger et al. | : | PARTICIPATE IN PATENT |
| Serial No. 12/320,393 | : | PROSECUTION HIGHWAY |
| Filed: January 26, 2009 | : | PROGRAM AND |
| For: COATED SODIUM PERCAR- | : | PETITION TO MAKE SPECIAL |
| BONATE PARTICLES | : | UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed January 25, 2010.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the EPO application(s);

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

(5) Applicant must submit a copy of all the office actions from each of the EPO application(s)
containing the allowable/patentable claim(s) along with an English translation thereof and a
statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

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

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

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

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

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

22 APR 2009

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

LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE MD 20855

| | |
|---|---|
| In re Application of:<br>LEININGER, Stefan, et al.<br>U.S. Application No.: 12/320,394<br>Int. Application No.: PCT/EP2007/056739<br>Int. Filing Date: 04 July 2007<br>Priority Date: 27 July 2006<br>Attorney's Docket No.: 7601/19850<br>For: COATED SODIUM PERCARBONATE PARTICLES | DECISION ON PETITION<br>37 CFR 1.181 |

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 To Recognize Application As An Application Filed Under 35 U.S.C. 371" filed 03 March 2009. No petition fee is required.

## BACKGROUND

On 04 July 2007, applicants filed international application PCT/EP2007/056739. The application claimed a priority date of 27 July 2006, and it designated the United States. On 31 January 2008, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for requesting entry into the national stage in the United States and payment of the basic national fee was thirty months from the priority date, i.e., 27 January 2009.

On 26 January 2009, applicants filed materials to initiate the present application. The submission included the following: transmittal letter, general fee authorization, application data sheet (ADS), copy of PCT/EP2007/056739, English translation of PCT/EP2007/056739, preliminary amendment, executed German declaration, English translation of the German declaration, and payment of the basic national fee. The transmittal letter, ADS, and preliminary amendment identified the application as the U.S. national stage of international application PCT/EP2007/056739.

On 13 February 2009, the USPTO issued a filing receipt that did not identify the application as the U.S. national stage of international application PCT/EP2007/056739.

On 03 March 2009, applicant filed the "Petition Under 37 CFR 1.181 To Recognize Application As An Application Filed Under 35 U.S.C. 371" considered herein. The petition argues that the present application is properly treated as the U.S. national stage of PCT/EP2007/056739 filed under 35 U.S.C. 371.

## DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> 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).

The materials filed by applicants to initiate this application clearly identify the application as the U.S. national stage of PCT/EP2007/056739 filed under 35 U.S.C. 371. The first line of the transmittal letter identifies the submission as "Entry into National Stage" for PCT/EP2007/056739, and the letter expressly states that the application is the "U.S. national stage of international application PCT/EP2007/056739." The ADS identifies the application as the U.S. national stage of PCT/EP2007/056739. And the preliminary amendment adds to the specification a statement that the "present application is US national stage of international application PCT/EP2007/056739, which had an international filing date of July 4, 2007." The submission does not include any conflicting instructions that are inconsistent with the intent to enter the national stage under 35 U.S.C. 371. Accordingly, the filed application is properly treated as a U.S. national stage filing under 35 U.S.C. 371, as requested by applicants in the present petition.

The filing receipt mailed 13 February 2009, which did not identify the application as the U.S. national stage of PCT/EP2007/056739, is appropriately vacated.

## CONCLUSION

Applicants' petition to have the present application treated as the U.S. national stage of PCT/EP2007/056739 filed under 35 U.S.C. 371 is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 January 2009.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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**Manelli Denison & Selter**
**2000 M Street NW Suite 700**
**Washington, DC 20036-3307**

COPY MAILED

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OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Michael Nakhamkin | : | |
| Application No. 12/320,403 | : | DECISION ON PETITION |
| Filed: January 26, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 62-305-SAT | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 26, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant. 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 571-272-4000.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 3741 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/320,467 | 01/27/2009 | Shigeki Miura | 0033-1259PUS1 | 6934 |

2292 7590 03/05/2009
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2814 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/05/2009 | 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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**BIRCH, STEWART, KOLASCH & BIRCH, LLP**
**8110 GATEHOUSE RD**
**SUITE 100 EAST**
**PO BOX 747**
**FALLS CHURCH, VA 22040-0747**

| | |
|---|---|
| **In re Application of** | |
| **Shigeki Miura** | **: DECISION ON REQUEST TO** |
| **Application No.: 12/320,467** | **: PARTICIPATE IN THE PATENT** |
| **Filed: 27 January 2009** | **: PROSECUTION HIGHWAY** |
| **Attorney Docket No.: 0033-1259PUS1** | **: PROGRAM AND PETITION** |
| **For: ELECTRODE SUBSTRATE HAVING CONDUCTIVE LAYERS WITH DIFFERENT PROPERTIES MADE OF CONDUCTIVE MATERIALS WITH DIFFERENT PROPERTIES FORMED ON TRANSPARENT BASE MATERIAL** | **: 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 27 January, 2009, in response to the dismissal decision mailed 12/10/08, 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:

Conditions 1-7 are considered to have been met. 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

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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** | : Noriyuki Sakuma | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621180 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/320,475 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/27/2009 | : 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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OCT 30 2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| | | |
|---|---|---|
| In re application of<br>Hideharu Nohara et al.<br>Application No. 12/320,519<br>Filed: January 28, 2009<br>For: CONTROL APPARATUS FOR VEHICULAR POWER TRANSMITTING SYSTEM | :<br>:<br>:<br>:<br>:<br>: | 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 October 29, 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).

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/

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 10/30/09

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/320,548 | 01/29/2009 | Ji-Hyun Kim | 301/123 | 4871 |

7590 11/04/2009
LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

| EXAMINER |
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| PATEL, NIMESHKUMAR D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2879 | |

| MAIL DATE | DELIVERY MODE |
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| 11/04/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
11/23/2009 0020276431

Credit Card Refund Total: $1268.00

Exp.: XXXXXXXXXXX1003

Adjustment date: 11/05/2009 NFARKER
01/30/2009 FMOHAMME 00000013 12320548
03 FC:1111 -540.00 OP
05 FC:1202 -720.00 OP



FORM PET651G (Rev. 08/07)

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

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| In re Application of | : | |
| YOSHII, SHIGEO | : | DECISION ON REQUEST TO |
| Application No. 12/320,556 | : | PARTICIPATE IN PATENT |
| Filed: 01/29/2009 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 061352-0220 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 12, 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 Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system at the http://www.uspto.gov/ebc/index.html.

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

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

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/320,563 | 01/29/2009 | Takuya Nishiura | 139487 | 4350 |

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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| 3661 | |

| MAIL DATE | DELIVERY MODE |
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| 11/25/2009 | PAPER |

7590 11/25/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

## 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

Repin. Ref: 11/25/2009 NFARMER 0012541500
DAH:152461 Name/Number:12320563
FC: 9204 $760.00 CR

Adjustment date: 11/25/2009 NFARMER
01730/2009 FMOHAMME 00000022 12320563
02 FC:1111 -540.00 OP
04 FC:1201 -220.00 OP



FORM PET651G (Rev. 08/07)

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ASIA POWER DEV. FOUNDATION, INC.
C/O ROGER PRIORESCHI
EMERALD HILLS, STA CRUZ
ANTIPOLO CITY 1780 PH PHILIPPINES

MAILED

MAR 13 2009

OFFICE OF PETITIONS

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| In re Application of | : | |
| Roger Carraro Prioreschi | : | |
| Application No. 12/320,606 | : | DECISION ON PETITION |
| Filed: January 30, 2009 | : | 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, 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 driver's 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 back to the Office of Patent Application Papers to await a reply to the Notice to File Corrected Application Papers (Notice) mailed March 2, 2009. This application will be accorded "special" status once pre-examination processing is complete.

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

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WASHINGTON DC 20036

| | | |
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| In re Application of | : | |
| Jon D. Cohen | : | |
| Application No. 12/320,631 | : | DECISION ACCORDING STATUS |
| Filed: January 30, 2009 | : | UNDER 37 CFR 1.47(a) |
| Attorney Docket No. 17216.0003 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed July 20, 2009.

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

With the instant petition, Rule 47 applicant has established that a copy of the application papers was forwarded to inventor Walid S. Saba on June 15, 2009. However, as of the filing date of the petition, no executed declaration from Saba 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 in the petition. Notice of the filing of this application will also be published in the Official Gazette.

A petition under 37 CFR 1.47 requires a petition fee of $200. Petitioner submitted $130. As authorized, $200 has been charged to Deposit Account No. 19-4293.

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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**OFFICE OF PETITIONS**

WALID S SABA
2243 JOURNET DR
DUNN LORING VA 22027

| | | |
|---|---|---|
| In re Application of<br>Saba, et al.<br>Application No. 12/320,631<br>Filed: January 30, 2009<br>Title: Constructed Response Scoring Mechanism | :<br>:<br>:<br>:<br>:<br>: | LETTER |

Dear Mr. Saba:

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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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

| | |
|---|---|
| In re Application of<br>Lars Svensson, Gert Karlsson,<br>Kent Lundin, and Ingemar<br>Drakensjo<br>Application No. 12/320,676<br>Filed: February 2, 2009<br>Attorney Docket Number: 66352-060-7<br>Title: PASSIVELY MAGNETIC FOIL, NOTICE DEVICE AND USE OF THE NOTICE DEVICE | DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(A) |

This is in response to the request for the Office to accord Rule 47 status to the above-identified application, filed February 2, 2009, on initial deposit of this application.

On February 2, 2009, the application was filed, identifying Lars Svensson, Gert Karlsson, Kent Lundin, and Ingemar Drakensjo as joint inventors. This petition was deposited on filing.

The $200 fee that is associated with the filing of this petition will be charged to Petitioner's Deposit Account in due course, as authorized on the second page of this petition.

This application is a division of 10/545,789. Petitioner has indicated that Rule 47 status was accorded to prior-filed application No. 10/545,789 via the mailing of a decision on November 1, 2006, and has included a copy of the petition that was filed in the parent application.

37 C.F.R. § 1.63(d)(3) sets forth, *in toto*:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and
> (ii) If one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

See also MPEP § 201.06(c)(VI).

With this request for the Office to accord Rule 47 status to the above-identified application, Petitioner has further included a copy of the decision granting a petition to accord § 1.47 status to the prior application.

Therefore, the petition is **GRANTED** and this application is hereby accorded Rule 1.47(a) status.

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

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 in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria VA 22314-1437

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kanda et al. | : | |
| Application No. 12/320,727 | : | DECISION ON PETITION |
| Filed: February 3, 2009 | : | |
| Attorney Docket No. WILL.0127 | : | |

This is a decision on the petition filed February 23, 2009 requesting under 37 CFR 1.182 that the terminal disclaimer filed February 17, 2009 be withdrawn.

The petition is **granted**.

Petitioners assert that the terminal disclaimer filed on February 17, 2009 involved subject matter to U.S. Patent Application No. 11/329,207 instead of U. S. Patent No. 6, 947, 370. Petitioners submitted a new terminal disclaimer on February 23, 2009, which corrects the errors. Accordingly, the terminal disclaimer is withdrawn and replaced with the terminal disclaimer submitted on February 23, 2009.

The $ 400.00 petition fee will be charged to deposit account no. 08-1480.

This application is being referred to the Office of Patent Application Processing for further pre-exam processing. Thereafter this application is being forwarded to Art Unit 2161 for correction in the PALM database and file records consistent with this decision.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3215

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MANELLI DENISON & SELTER**
**2000 M STREET NW, SUITE 700**
**WASHINGTON, DC 20036-3307**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Michael NAKHAMKIN | : | |
| Application No. 12/320,751 | : | DECISION ON PETITION |
| Filed: February 4, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 62-305-CON | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 4, 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 the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/320,814 | 02/05/2009 | Alain Mollet | 140461 | 2871 |

7590 08/06/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/06/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
08/07/2009 NFARMER 0000168269
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CHECK Refund Total: $540.00

Adjustment date: 08/07/2009 NFARMER
02/06/2009 AWONDAF1 00000018 12320814
02 FC:1111 -540.00 OP



FORM PET651G (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/320,881 | 02/06/2009 | Yuki Higuchi | 08USFP2051-M.K. | 4987 |

7590 10/07/2009
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

| EXAMINER |
|---|
| CHIANG, JACK |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2825 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/07/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Repln. Ref: 10/28/2009 NFARMER 0217383003
DA#:585461 Name/Number:12320881
PC: S224 $760.00 CR

Adjustment date: 10/08/2009 NFARMER
02/09/2009 AWONDAF1 00000039 12320881
02 FC:1111 -540.00 OP
04 FC:1201 -220.00 OP



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GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD CT 06902

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**OFFICE OF PETITIONS**

In re Patent No. 7,306,175
Thomas E. Farmer
Issue Date: December 11, 2007
Application No. 11/363,739
Filed: February 28, 2006
Attorney Docket No. FAR-008

In re Application of
Thomas E. Farmer
Application No. 12/321,015
Filed: December 11, 2007
Attorney Docket No. FAR-008 D1
Title: Broadcast Spreader Mechanism for an All Terrain Vehicle and the Like

DECISION ON PETITION

This is a decision on the petition filed March 28, 2008, which is being treated as a petition under 37 CFR 1.183, requesting that the Office suspend the requirements of 37 CFR 1.6(d) and 37 CFR 1.8(a)(2)(i)(A) and assign the divisional application entitled "Broadcast Spreader Mechanism for an All Terrain Vehicle and the Like" an application number with a filing date of December 11, 2007.

Based on the facts specific to this case, it is agreed that justice would be served by waiving the requirements of 37 CFR 1.6(d) and 37 CFR 1.8(a)(2)(i)(A) and to accord the application a filing date of December 11, 2007.

Accordingly, the petition is GRANTED.

The Office has assigned the divisional application an application number, 12/321,015, and accorded it a filing date of December 11, 2007. The Office has copied the Application Transmittal, Fee Transmittal, specification, claims, abstract, drawings, preliminary amendment, and declaration submitted on December 11, 2007, in Application No. 11/363,739 and placed them in Application No. 12/321,015. A copy of the present petition and decision will be retained in Application No. 11/363,739 to complete the record therein. All further correspondence concerning the divisional application should be directed to Application No. 12/321,015, not Application No. 11/363,739.

The Office will charge a fee of $400.00 for the filing of the petition under 37 CFR 1.183 in Application No. 12/321,015. No additional petition fee will be charged in Application No. 11/363,739.

The application is being referred to the Office of Patent Application Processing for further processing as a divisional application with a filing date of December 11, 2007, using the copy of the application papers supplied with the petition on March 28, 2008.

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

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**GEARHART LAW, LLC**
**4 FERNDALE ROAD**
**CHATHAM NJ 07928**

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In re Application of
Sylvestor YEN
Application No. 12/321,054
Effective Date: January 15, 2009
Attorney Docket No. **1535 JY 01 UTL**

DECISION ON PETITION

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 Notice to File Corrected Application Papers (Notice), mailed February 05, 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 April 06, 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 corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Corrected Application Papers of February 05, 2009 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $865 extension of time fee submitted with the petition on November 18, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.
This application is being referred to the Office Patent Application Processing.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/321,059 | 01/14/2009 | Chi Keung Alex Chan | P1040US-T | 7033 |

23935 7590 02/19/2010
KOPPEL, PATRICK, HEYBL & DAWSON
2815 Townsgate Road
SUITE 215
Westlake Village, CA 91361-5827

| EXAMINER |
|---|
| FAHMY, WAEL M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2814 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/19/2010 | PAPER |

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

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

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2815 Townsgate Road
SUITE 215
Westlake Village CA 91361-5827

| | | |
|---|---|---|
| In re Application of | : | |
| CHAN et al | : | DECISION ON PETITION |
| Application No. 12/321,059 | : | TO MAKE SPECIAL UNDER |
| Filed: 14 January 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. P1040US-T | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 29 December 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant

will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item 9 above.

In regard to item 9, petitioner should note that since the publication fee as set forth in 37 CFR 1.18(d) has not been received, the petition is dismissed.

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

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2814 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/321,059 | 01/14/2009 | Chi Keung Alex Chan | P1040US-T | 7033 |

23935 7590 03/10/2010
KOPPEL, PATRICK, HEYBL & DAWSON
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| EXAMINER |
|---|
| FAHMY, WAEL M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2814 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/10/2010 | PAPER |

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

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

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2815 Townsgate Road
SUITE 215
Westlake Village CA 91361-5827

| | | |
|---|---|---|
| In re Application of | : | |
| CHAN et al | : | DECISION ON PETITION |
| Application No. 12/321,059 | : | TO MAKE SPECIAL UNDER |
| Filed: 16 January 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. P1040US-T | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 29 December 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The decision mail 23 February 2010 is whereby **VACATED**.

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition

must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

The publication fee as set forth in 37 CFR 1.18(d) has been charged.

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2814 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 27 2010

OFFICE OF PETITIONS

THOMAS MCGLYNN
FOCUS-N-FLY INC
834 ACACIA AVE
BURLINGAME CA 94010

| | | |
|---|---|---|
| In re Application of | : | |
| McGlynn, et al. | : | |
| Application No. 12/321,087 | : | ON PETITION |
| Filed: January 15, 2009 | : | |
| Title: Web Enabled Interactive Aerobic Training System | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 6, 2009, and supplemented on November 19, 2009.

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

The above-identified application became abandoned for failure to timely corrected drawings in response to the Notice to File Corrected Application Papers, mailed February 6, 2009. This Notice set an extendable period for reply of two (2) months for applicants to submit a substitute specification and replacement drawings. No reply having been received, the application became abandoned on April 7, 2009. The Office mailed a Notice of Abandonment on October 19, 2009.

With the instant petition, petitioner paid the petition fee, made a statement of unintentional delay, and submitted the required reply in the form of a substitute specification (together with a statement that it does not contain new matter) and replacement drawings.

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. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**WILLIAM G. GENSLER**
**4020 E. CORONADO DRIVE**
**TUCSON AZ 85718**

COPY MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of

**GENSLER, William G.**
Application No. 12/321,218
Filed: January 20, 2009
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 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by William Gensler, 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 Processing. This application will be accorded "special" status when pre-examination processing is done.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Kenneth Watov, Esq.**
**WATOV & KIPNES, P.C.**
**P.O. Box 247**
**Princeton Juncton NJ 08550**

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DEC 18 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Robert B. Royds | : | |
| Application No. 12/321,287 | : | DECISION ON PETITION |
| Filed: January 20, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 1301.1.005DIV | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 22, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the attorney of record declaring that he/she is in possession of such evidence that proves the applicant is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Johnson 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 1641 for action on the merits commensurate with this decision.

Terri Johnson

Terri Johnson
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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**Mark E. Ogram (30343)**
**Suite 110-186**
**6990 E. 22nd Street**
**Tucson AZ 85710-5192**

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JAN 19 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Mark Ellery Ogram | : | DECISION ON PETITION |
| Application No. 12/321,306 | : | TO MAKE SPECIAL UNDER |
| Filed: January 16, 2009 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 1414AW.2 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed December 16, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice

before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks items 1, 7 and 9.

In regard to item 1, this application has been classified in an area (USPC 361/222) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

In regard to item 7, the present petition to make special was not filed electronically as required.

In regard to item 9, the petition to make special must be accompanied by a request for early publication and the publication fee set forth in 37 CFR 1.18(d). The publication fee was not included and no authorization was given for charging this fee.

For these reasons, the petition is dismissed.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

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 2836 for action in its regular turn.

Carl Friedman
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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**DONALD E. BURG**
**15840 S.W. 84TH AVENUE**
**MIAMI FL 33157**

**COPY MAILED**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of<br>Donald E. Burg<br>Application No. 12/321,357<br>Filed: January 16, 2009<br>Title: Marine Propulsor With Fluid Inducer | :<br>:<br>:<br>:<br>: | ON PETITION |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 16, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

This matter is being referred to the Technology Center Art Unit 3617 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, N.J. 07090

MAILED

MAY 13 2010

OFFICE OF PETITIONS

Applicants: Riemer, et al.
Appl. No.: 12/321,378
Filing Date: January 16, 2009
Title: KIRSCHNER WIRE CLAMP
Attorney Docket: TRAUMA 3.0-557
Pub. No.: US 2009/0216242 A1
Pub. Date: August 27, 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 granted.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS F. LENIHAN
TEKTRONIX, INC.
14150 S. W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON, OR 97077-0001

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FEB 26 2010

| | |
|---|---|
| In re Application of<br>Ramachandra CV, et. al.<br>Application No. 12/321,379<br>Filed: January 17, 2009<br>Attorney Docket No. 8372-US0 | DECISION DISMISSING<br>PETITION UNDER 37 CFR 1.10(c) |

This is a decision on the petition filed April 27, 2009 and November 13, 2009, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on January 16, 2009, which is the "date-in" or other official USPS notation on the Express Mail Mailing Label, instead of the currently accorded filing date of January 17, 2009.

Petitioner requests the filing date of January 16, 2009 on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the "date-in" or other official USPS notation on the "Express Mail" mailing label.

The petition is **DISMISSED**.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

(1) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(3) include a true copy of the "Express Mail" mailing label showing the "date in" and of any other official notation by the USPS.

This petition lacks item (2) and (3) above.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to the Office of Patent Application Processing with the presently accorded filing date of January 17, 2009.

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Orwar, et al | : | DECISION REFUSING STATUS |
| Application No. 12/321,391 | : | UNDER 37 CFR 1.47(a) |
| Filed: January 21, 2009 | : | |
| Attorney Docket No. 59764CON2(47137) | : | |

This is in response to the petition under 37 CFR 1.47(a), filed September 11, 2009.

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 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.

Petitioners lack items (1) and (2) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventors have constructively refused to sign the declaration. When it is concluded by the 37 CFR 1.47 applicants that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. **If there is documentary evidence to support facts alleged in the petition or in any statement of facts,such evidence should be submitted.**

The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. MPEPE 409.03(d)

The showing in the present petition lacks any documentary evidence to support facts alleged in the petition. The Office would like to see copies of the letters to the nonsigning inventors. Please submit (1) copies of the letters presenting the nonsigning inventors with the application and papers for their signatures and (2) copies of the letters reminding them of the necessity to return an executed declaration.

The Office would like a statement from Inventor Owar about his presentation of the documents to the non-signing inventors.

As to item (2), the oath or declaration is not acceptable. See MPEP 409.03(a) Petitioners are reminded that all inventors must make declaration on their own behalf **and** on the behalf of the non-signing inventor. In this instance, only the first named inventor made declaration/signed on behalf of the nonsigning inventors.

This problem may be remedied by submitting a newly executed declaration in which the signing inventors sign in their respective signature blocks and the nonsigning inventors' signature blocks are left blank **OR** by submitting a declaration by Mattias Karlsson, the second named joint inventor, stating that he executed the declaration on behalf of the two nonsigning inventors, as well.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Orwar, et al | : | DECISION REFUSING STATUS |
| Application No. 12/321,391 | : | UNDER 37 CFR 1.47(a) |
| Filed: January 21, 2009 | : | |
| Attorney Docket No. 59764CON2(47137) | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 1, 2009.

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 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.

Petitioners lack item (1) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventors have constructively refused to sign the declaration.. **If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.**

It is not clear that Ms. Jones' September 2009 emails to Mr. Ihrsen were received. Petitioners are informed that e-mailing is generally not accepted as a means to communicate with non-signing inventors/their representative. This is because the Office cannot know definitely if the message was received; people are not as careful in deleting e-mails as they are in throwing out mail as shown by bulk folder deletions and the fact that some people might not check e-mails frequently;

the Office does not know if the recipient has the program to open the specific attachment; and PTO guidelines regarding accepting e-mail reflects the fact that the Office does not have the same confidence in e-mail as it does in postal service.

The Office typically requires documentary evidence of successful e-mailing in the form of a response e-mail from the non-signing inventor/his representative in which the inventor/ his representative acknowledges receipt of the e-mail and his ability to read the attachments. Sending an e-mail is not sufficient.

As stated in the previous decision on petition: The Office would like to see copies of the letters to the nonsigning inventors. **Please submit (1) copies of the letters (translated into English, if necessary) presenting the nonsigning inventors with the application and papers for their signatures.**

**The Office would like a statement from Inventor Owar about his presentation of the documents to the non-signing inventors.**

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

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

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

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

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

Shirene Willis Brantley

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

MAILED OCT 01 2009

Kenneth P. Glynn
24 Mine Street
Flemington NJ 08822

| | |
|---|---|
| In re Application of: Kenneth P. Glynn<br>Application No.: 12/321402<br>Filed: January 20, 2009<br>Title: RECIPROCATING SOLAR ENGINE WITH ATTACHED SOLAR WINDOWS | 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 August 18, 2009 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. The Notice of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) can be accessed on the internet at
http://www.uspto.gov/web/offices/com/sol/notices/71fr36323.pdf

Further guidance may be found website of the USPTO at
http://www.uspto.gov/web/patents/accelerated

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 Linda Sholl, TC 3700 Special Program Examiner, at (571) 272-4391.

Linda Sholl

Linda Sholl
Special Program Examiner
Technology Center 3700

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P.O. Box 1450
Alexandria, VA 22313-1450
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**PLANT HAVEN, INC.**
**P.O. BOX 3056**
**SANTA BARBARA CA 93130**

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Application of
Martin TULLY
Application No. 12/321,535
Filed: January 20, 2009
Attorney Docket No.

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 22, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 22, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 23, 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 $595 and publication fee of $300; (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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**AT & T LEGAL DEPARTMENT- MONKA**
**ATTN: PATENT DOCKETING**
**ROOM 2A-207**
**ONE AT & T WAY**
**BEDMINSTER NJ 07921**

**MAILED**

MAY 07 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Steven TODD | : | DECISION |
| Application No. 12/321,553 | : | ON PETITION |
| Filed: January 22, 2009 | : | |
| Attorney Docket No. 112820CON9 | : | |

This is a decision on the petition UNDER 37 CFR 1.137(b), filed April 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 non-final Office action mailed, July 22, 2009, which set a shortened statutory period for reply of three (3) months. 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 October 23, 2009.

Since this application was abandoned on October 23, 2009, the patent examiner had no procedural authority with respect to the abandoned application on or after October 23, 2009. While it is unfortunate that notwithstanding the lack of a proper response to the Office action mailed July 22, 2009, on February 5, 2010, a Notice of Allowance was mailed, such action was performed without proper authority, and thus, had no force and effect. As the Notice of Allowance action mailed on February 5, 2010 was issued in an abandoned application, said Notice of Allowance action is hereby **WITHDRAWN**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the July 22, 2009 Office action, (2) the petition fee of $1620.00; 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 $1,110.00 extension of time fee submitted with the petition on April 26, 2010

was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 19-0089.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being forwarded to Technology Center, Art Unit 3625, for action and response to the response, filed April 26, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA. 20191

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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**Vincent Dean Herreid**
**1642 Grayfriars Ave.**
**Holt MI 48842**

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APR 0 3 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Vincent Dean Herreid | : | |
| Application No. 12/321,585 | : | DECISION ON PETITION |
| Filed: January 23, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. N/A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 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 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 3636 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASKBRITT / BATTELLE ENERGY ALLIANCE, LLC
PO BOX 2550
SALT LAKE CITY, UT 84110

MAILED

JUL 02 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| David N. Thompson, et al. | : | |
| Application No. 12/321,636 | : | DECISION GRANTING PETITION |
| Filed: January 23, 2009 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. BA-102 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on June 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**RICHARD L. MILLER**
**12 PARKSIDE DRIVE**
**DIX HILLS NY 11746**

MAILED

JUN 04 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Rose Spagnuolo | : | |
| Application No. 12/321,784 | : | ON PETITION |
| Filed: January 26, 2009 | : | |
| Attorney Docket No. SPAR46A | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 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 Declaration from applicant that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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.

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 3732 for action on the merits commensurate with this decision.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**DAE SHIK PARK**
**2821 NORSEWOOD DRIVE**
**ROWLAND HEIGHTS CA 91748**

**MAILED**

MAY 26 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **PARK,** Dae S. | : | |
| Application No. 12/321,804 | : | DECISION ON PETITION |
| Filed: January 26, 2009 | : | 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 26, 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 Dae Shik Park's passport, 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 3772 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Robert Abrams

Application No. 12321854

Filed: January 26,2009

Attorney Docket No. 281103 Abrams CIP-3 Loop

: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 11-JUN-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**JOANN VILLAMIZAR**
**CIBA CORPORATION/PATENT DEPARTMENT**
**540 WHITE PLAINS ROAD**
**P.O. BOX 2005**
**TARRYTOWN NY 10591**

COPY MAILED

APR 1 0 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Stephen M. Andrews et al | : | |
| Application No. 12/321,946 | : | DECISION GRANTING |
| Filed: January 27, 2009 | : | PETITION |
| Attorney Docket No. PP/1-23529/A/CGC | : | |
| 2250/CON | : | |

This is a decision on the petition, filed March 9, 2009, requesting that the above-identified application be accorded a filing date of January 27, 2009, rather than the presently accorded date of January 26, 2009. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on January 27, 2009. In support, the petition is accompanied by a copy of Express Mail receipt No. EB445159481US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of January 27, 2009.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on January 27, 2009.

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 **January 27, 2009** and for issuance of a corrected filing receipt.

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

Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**JOHN L. ISAAC, ESQ.**
**3140 S. PEORIA ST., #K-243**
**AURORA, CO 80014**

**COPY MAILED**

MAR 1 1 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Peter K.H. GROTH | : | |
| Application No. 12/322,001 | : | DECISION ON PETITION |
| Filed: January 28, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 7194.02.01 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 28, 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 the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder, CO 80301

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Ken Sawatari | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7658652 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/322,035 | : OF WYETH |
| **Filed** | : 01/28/2009 | : |
| | | : |

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

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**ANNE MCGOVERN BURKHART C/O CARMER PATTI LAW GROUP**
**1 NORTH LA SALLE, 44TH FLOOR**
**CHICAGO, IL 60602**

MAILED

SEP 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | DECISION ON PETITION |
| John Saranga | : | TO WITHDRAW |
| Application No. 12/322,049 | : | FROM RECORD |
| Filed: January 28, 2009 | : | |
| Attorney Docket No. Saranga-2 USA | : | |

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 31, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Anne McGovern Burkhart c/o Carmer Patti Law Group were revoked by the applicant of the patent application on August 10, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON, DE 19806

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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**YEFIM KREYDIN**
**201 EAST 28 STREET #2E**
**NEW YORK, NY 10016**

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MAR 1 1 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Joseph KAHN, et al | : | |
| Application No. 12/322,061 | : | DECISION ON PETITION |
| Filed: January 29, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0805/YK | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 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 copy of applicants passports. 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.

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.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE LAW OFFICES OF BRADLEY J. BEREZNAK
800 WEST EL CAMINO REAL
SUITE 180
MOUNTAIN VIEW, CA 94040

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FEB 01 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Reshad Rahman, et al. | : | |
| Application No. 12/322,106 | : | DECISION ON PETITION |
| Filed: January 28, 2009 | : | |
| Attorney Docket No. 01236.P015C | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

In view of the above, 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 23, 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 April 24, 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 substitute specification, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application Papers for pre-examination processing of the reply received November 19, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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George R. Schultz
Schultz & Associates, P.C.
One Lincoln Centre, Suite 1200
5400 LBJ Freeway
Dallas, TX 75240

**MAILED**

JUN 17 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Misty Johnson | : | |
| Application No. 12/322,249 | : | DECISION ON PETITION |
| Filed: January 30, 2009 | : | TO WITHDRAW |
| Attorney Docket No. 47853.0103 | : | 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 April 30, 2010.

The request is **APPROVED**.

George R. Schultz has been withdrawn as attorney/agent of record. Therefore, applicant is reminded that there is no attorney/agent of record at this time.

The change of correspondence address is accepted. Thus, all future communications from the Office will be directed to the sole inventor at the address listed below until otherwise properly notified by the applicant.

Telephone inquiries 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

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 | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/322,249 | 01/30/2009 | Misty Johnson | 47853.0103 |

**CONFIRMATION NO. 3796**

**POWER OF ATTORNEY NOTICE**

*OC000000042062776*

George R. Schultz
Schultz & ASSOCIATES, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 1200
Dallas, TX 75240

Date Mailed: 06/17/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/30/2010.

- 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.

/amsmith/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 12/322,287 | 01/30/2009 | Akira Hasuike | 488-028A | 6322 |

47888 7590 05/29/2009
HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

| EXAMINER |
|---|
| RICE, ELISA M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2624 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/29/2009 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

| | | |
|---|---|---|
| In re Application of | : | |
| HASUIKE, AKIRA | : | DECISION ON REQUEST TO |
| Application No. 12/322,287 | : | PARTICIPATE IN PATENT |
| Filed: January 30, 2009 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 488-028A | : | 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 April 2, 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

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 E. MUETH, ESQ.**
**SUITE 300**
**100 E. CORSON STREET**
**PASADENA CA 91103-3842**

**MAILED**

MAR 16 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **ZEBEDEE,** Suzanne et al. | : | |
| Application No. 12/322, 370 | : | DECISION ON PETITION |
| Filed: January 29, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **323-100US D-C-C** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 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 by Alfred M. Prince 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.

The application is being forwarded to the Technology Center Art Unit 1648 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MARK S. HUBERT P.C.**
**516 SE MORRISON- SUITE 1200**
**PORTLAND OR 97214**

**MAILED**
MAR 2 6 2010
**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Laddie Gene Henderson | : | |
| Application No. 12/322,533 | : | DECISION ON PETITION |
| Filed: February 3, 2009 | : | |
| | : | |

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**.

This application became abandoned for failure to timely submit corrected formal drawings on or before December 14, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 14, 2009. Accordingly, the date of abandonment of this application is December 15, 2009. The Notice of Abandonment was mailed December 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

Terri Johnson
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

SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE NY 14221-5406

**MAILED**

MAR 13 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tilak Bommaraju | : | |
| Application No. 12/322,596 | : | DECISION ON PETITION |
| Filed: February 4, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. PTOP: 101bUS | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 4, 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 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 forwarded to the Technology Center Art Unit 3749 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. |
|---|---|---|---|---|
| 12/322,644 | 02/04/2009 | Jeffrey Beaton | 6093-1 | 7464 |

22442 7590 05/05/2010
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

| EXAMINER |
|---|
| HERNDON, HEATHER R |

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

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/05/2010 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHERIDAN ROSS PC
1560 Broadway
Suite 1200
Denver CO 80202

In re Application of:
BEATON, Jeffrey
Application No. 12/322,644
Filed: February 4, 2009
For: SYSTEM AND METHOD FOR OVERLAY ADVERTISING AND PURCHASING UTILIZING ON-LINE VIDEO OR STREAMING MEDIA

**DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on February 4, 2009, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 2A – 4H be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

*"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was filed with the required fee and was filed with three (3) sets of color drawings of Figures 2A – 4H. Page 14, lines 7-9, of the specification contains the required notification described above.

Accordingly, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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

**DANIEL LUCH**
**17161 COPPER HILL DRIVE**
**MORGAN HILL CA 95037**

**MAILED**

MAR 16 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **LUCH,** Daniel | : | |
| Application No. 12/322,664 | : | DECISION ON PETITION |
| Filed: February 04, 2009 | : | 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), February 04, 2009 and re-submitted on June 27, 2008 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Daniel Luch, driver's license attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

MAILED

MAY 28 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Shoji Miyazaki, et al. | : | |
| Application No. 12/322,684 | : | DECISION GRANTING PETITION |
| Filed: February 5, 2009 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 55220/7851 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Alan D. Miller appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Miller desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 11, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

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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.*

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/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

**Ashkan Najafi, P.A.**
**6817 Southpoint Parkway**
**Suite 2301**
**Jacksonville, FL 32216**

COPY MAILED

MAR 04 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Leeford Thomas | : | |
| Application No. 12/322,753 | : | DECISION ON PETITION |
| Filed: February 7, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 1481CIP | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 7, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant. 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 571-272-4000.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 3753 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
www.uspto.gov

**STEVEN HOROWITZ**
**COUNSELOR AT LAW**
**SUITE 700**
**295 MADISON AVENUE**
**NEW YORK NY 10017**

**MAILED**

MAR 16 2009

**OFFICE OF PETITIONS**

In re Application of

**KORSGAARD,** Jens
Application No. 12/322,824
Filed: February 06, 2009
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), February 06, 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 Jens Korsgaard driver's license and a declaration 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 Application Processing for processing. This application will be accorded "special" status when pre-examination processing is done.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ELSA KELLER, LEGAL ASSISTANT
INTELLECTUAL PROPERTY DEPARTMENT
SIEMENS CORPORATION
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of
James Henson et al.
Application No. 12/322,839
Filed: February 6, 2009
Attorney Docket No. **2008P02478US01**
**(12468-00117)**

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed September 8, 2009 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, 2009, without an oath or declaration. Accordingly, on March 6, 2009, 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 four month extension of time and a declaration executed by all joint inventors, except James Henson, was filed in their own stead and on behalf of the non-signing joint inventor. Petitioner claims that joint inventor James Henson 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), while petitioners argue by statement of Matthew T. Ridsdale of BRINKS HOFER GILSON & LIONE, that a copy of the application was delivered to the last known address of James Henson, petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor.

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.

Petitioners must also present proof that if after having received the complete application, the non-signing inventor refused to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition.

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(d).

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

MICHAEL E. MCKEE
ATTORNEY AT LAW
804 SWAPS LANE
KNOXVILLE, TN 37923

**COPY MAILED**

JUN 2 3 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Wilson A. FELKNOR | : | |
| Application No. 12/322,904 | : | DECISION ON PETITION |
| Filed: February 9, 2009 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 148-021-1 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 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 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 3643 for action on the merits commensurate with this decision.

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

COPY MAILED
JAN 22 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Yukiko Sato | : | |
| Application No. 12/322,921 | : | DECISION GRANTING PETITION |
| Filed: February 9, 2009 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. SATO – 7 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 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 4, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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 (03-09)
Approved for use through 03/31/2009. 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 | 12/322,935 | Confirmation Number | 1578 | Filing Date | 2009-03-20 |
| Attorney Docket Number (optional) | | Art Unit | | Examiner | |
| First Named Inventor | David Michael Kurn | | | | |
| Title of Invention | Computer system for indexing and storing sensitive, secured, information on a non-trusted computer storage array | | | | |

**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 |
|---|---|---|---|
| David | Michael | Kurn | |

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 | /DavidMichaelKurn/ | Date (YYYY-MM-DD) | 2009-03-20 |
| Name | David Michael Kurn | | |

PTO/SB/130 (03-09)
Approved for use through 03/31/2009. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

# Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
David Michael Kurn

Application No. 12322935

Filed: February 9,2009

Attorney Docket No.

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 20-MAR-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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. |
|---|---|---|---|---|
| 12/322,952 | 02/09/2009 | Gary Avery | MB 734 | 8393 |

7590 01/08/2010

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

| EXAMINER |
|---|
| KNIGHT, DEREK DOUGLAS |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3655 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/08/2010 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 01/11/2010 TFARMER
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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

**GREENBERG TRAURIG, LLP**
**200 PARK AVE.**
**P.O. BOX 677**
**FLORHAM PARK NJ 07932**

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DEC 1 1 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Truncale et al. | : | |
| Application No. 12/322,996 | : | ON PETITION |
| Filed: February 9, 2009 | : | |
| Attorney Docket No. 103248-010404 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 16, 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 attorney for the applicant that the applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 3775 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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MAY 22 2009

**OFFICE OF PETITIONS**

In re Application of
Sean Joseph Convery et al.
Application No. 12/323,002
Filed: November 25, 2008
Attorney Docket No. NTL301

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed May 5, 2009 under 37 CFR 1.47(a).

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

The above-identified application was filed on November 25, 2008, without an oath or declaration. On December 9, 2008, a "Notice To File Missing Parts of Application" was mailed which set a two month period for reply.

In response, the requirements of the Notice, the instant petition under 37 CFR 1.47(a), a three month extension of time request, and an oath or declaration signed by all joint inventors except John Christopher Evans Radkowski was filed. The petition argues that joint inventor Radkowski has failed to return executed copies of the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were forwarded to joint inventor Radkowski and that to date, he has not returned an executed copy of the oath or declaration.

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

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

application will also be published in the Official Gazette.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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JOHN CHRISTOPHER EVANS RADKOWSKI
12950 BRENDEL DRIVE
LOS ALTOS HILLS, CA 94022

In re Application of
Sean Joseph Convery et al.
Application No. 12/323,002
Filed: November 25, 2008
For: **CONTEXT-BASED NETWORK SECURITY**

**COPY MAILED**

MAY 22 2009

**OFFICE OF PETITIONS**

Dear Mr. Radkowski:

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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. |
|---|---|---|---|---|
| 12/323,108 | 11/25/2008 | Jin MURAOKA | 061352-0206 | 7200 |

7590 06/02/2009
McDERMOTT WILL & EMERY LLP
600 13th Street, N.W.
Washington, DC 20005-3096

| EXAMINER |
|---|
| PHAM, HOA Q |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2886 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/02/2009 | PAPER |

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

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

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**McDermott Will & Emery LLP**
**600 13th Street N.W.**
**Washington, DC 20005-3096**

| | |
|---|---|
| **In re Application of** | **: DECISION ON REQUEST TO** |
| **Jin Muraoka et al** | **: PARTICIPATE IN THE PATENT** |
| **Application No.: 12/323,108** | **: PROSECUTION HIGHWAY** |
| **Filed: 25 November 2008** | **: PROGRAM AND PETITION** |
| **Attorney Docket No.: 061352-0206** | **: TO MAKE SPECIAL UNDER** |
| **For: STIRRING STATE DETECTING METHO** | **: 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 12 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:

Conditions 1-7 are 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

1 3 FEB 2009

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WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK NY 10022

| | | |
|---|---|---|
| In re Application of | : | |
| MARKS | : | |
| Application No.: 12/323,119 | : | DECISION |
| Attorney Docket No.: 0019240.00600US3 | : | |
| For: METHODS AND COMPOSITIONS FOR | : | |
| TREATING NEOINTIMAL HYPERPLASIA | : | |

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 25 November 2008.

## BACKGROUND

On 13 April 2007, applicants filed international application PCT/US2007/009289 which designated the U.S. and claimed a priority date of 13 April 2006. A copy of the international application was communicated to the USPTO from the International Bureau on 25 October 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 October 2008 (13 October 2008 being a Federal holiday).

On 25 November 2008, applicants filed, *inter alia*, a transmittal letter requesting filing of a continuation-in-part of international application number PCT/US2007/009289, a specification, claims, abstract, drawings, and a petition under 37 CFR 1.137(b).

## DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the filing of the present continuing application under 35 U.S.C. 111(a) on 25 November 2008 is accepted as an appropriate response under 37 CFR 1.137(b).

As to item (2), the petition fee was paid on 25 November 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

## CONCLUSION

The petition under 37 CFR 1.137(b) to revive international application PCT/US2007/009289 is hereby **GRANTED** as to the National stage in the United States of America 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 12/323,119.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 0 2009

**OFFICE OF PETITIONS**

REGENERON PHARMACEUTICALS, INC
777 OLD SAW MILL RIVER ROAD
TARRYTOWN NY 10591

In re Application of
Gang Chen et al.
Application No. 12/323,161
Filed: November 25, 2008
Attorney Docket No. 850B

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed March 4, 2009 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on November 25, 2008, naming Gang CHEN, James P. FANDL and Changlin DOU as joint inventors but without a signed declaration. Accordingly, on December 29, 2008, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration and surcharge for late filing of the oath or declaration.

In response, on March 4, 2009, an oath or declaration executed by joint inventors Chen and Fandl, a petition under 37 CFR 1.47(a) and a request for a one month extension of time was filed. The petition argues that joint inventor Dou refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Dou and that he has expressly, verbally and in writing, refused to sign the oath or declaration or to cooperate with the filing of the instant application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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. |
|---|---|---|---|---|
| 12/323,193 | 11/25/2008 | Feng-wei Chen | RSW920080275US2 (304412) | 7355 |

78290 7590 06/22/2009
Oppenheimer Wolff & Donnelly LLP
Plaza VII, Suite 3300
45 South Seventh Street
Minneapolis, MN 55402-1609

| EXAMINER |
|---|
| MOFIZ, APU M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2161 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/22/2009 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Robert M. Hirning
OPPENHEIMER, WOLFF & DONNELLY
45 South Seventh Street, Suite 3300
Minneapolis, Minnesota 55402

In re Application of:
Feng-Wei CHEN, et al
Serial No.: 12/323,193
Filed: November 25, 2008
Attorney Docket: RSW920080275US2
Title: DYNAMIC ONTOLOGY-DRIVEN TEMPLATE SELECTION

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

This is a decision on the petition filed on November 25, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:
1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

The conditions I.1 - I.4, II.1 - II.4, II.5.1- II.5.3, II.6.1 - II.6.4, and II.6.6 above are considered to have been met. However, the petition fails to comply with condition II.6.5 above.

Regarding to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, since the instant application is claiming the benefit under 35 U.S.C. § 120 of the U.S. Patent Application No. 12/147,702 ("the parent application"), similar identification of support under 35 U.S.C. § 112, first paragraph was not provided in the Accelerated Examination Support Document.

DECISION

In the interest of expediting examination on the instant application, the undersigned reviewed the parent application and determined that both applications are appeared substantially identical. Thus, the showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, as stated in the Accelerated Examination Support Document for the instant application is equally applied to the parent application.

Accordingly, the petition to make the application special is **GRANTED**.

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

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

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

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

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application

in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

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

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

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

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

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

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

8. After-Final and Appeal Procedures:

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

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

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

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

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

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

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

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

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Paper No.

JUN 22 2009

OFFICE OF PETITIONS

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P.O. BOX 2516
ALEXANDRIA VA 22301

| | | |
|---|---|---|
| In re Application of | : | |
| Akos Vertes et al. | : | |
| Application No. 12/323,276 | : | DECISION ON PETITION |
| Filed: November 25, 2008 | : | PURSUANT TO |
| Attorney Docket No.: | : | 37 C.F.R. § 1.182 |
| GWU-Vertes 3D | : | |
| Title: THREE-DIMENSIONAL | : | |
| MOLECULAR IMAGING BY INFRARED | : | |
| LASER ABLATION ELECTROSPRAY | : | |
| IONIZATION MASS SPECTROMETRY | : | |

This is a decision on the "PETITION FOR DATE OF DEPOSIT, AMENDMENT TO SPECIFICATION & FIGURES," filed on April 16, 2009, requesting that the above-identified application, including Figures 1A and 3A, be accorded a filing date of November 25, 2008, as part of the original disclosure.

The application was deposited on November 25, 2008. However, on January 13, 2009, the Office of Data Management mailed a "Notice to File Missing Parts of Nonprovisional Application" (notice), stating, *inter alia*, that the application had been accorded a filing date, and advising applicants that Figures 1A and 3a appeared to have been omitted on filing. The notice set a two-month period for reply.

In response, on April 16, 2009, Applicants filed this petition. The petition is further accompanied by, *inter alia*, the petition

fee, a copy of Figures 1-11,[1] and an indication that Figures 1A and 3A were present on filing.

More specifically, Applicants have indicated that the drawings were "somehow electronically deformed during the preparation and/or submission process resulting in Fig. 1A being shrunk and Fig. 3A being narrowed."[2]

It has been confirmed with the appropriate USPTO personnel that the images that appear in the Image File Wrapper are the images that were received on initial deposit. Put another way, Applicants' assertion has been confirmed - the submission of these "deformed" images was Applicants' error either before or during the image uploading process, and the images did not become corrupted by the USPTO subsequent to the transmission.

As such, Figures 1A and 3A were not among the papers electronically submitted to the Office on November 25, 2008.

To the extent the present petition requests the acceptance of this application as initially deposited[3] with a filing date of November 25, 2008, the petition is **GRANTED**.

**Newly submitted Figures 1-11 will not be entered at this time.**

**The amendments to the drawings and specification received on April 16, 2009 will, of course, be reviewed by the examiner for new matter.**[4]

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over this 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.

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1 The drawings have been renumbered. The drawings that were labeled as Figures 1A and 3A have been renumbered as Figures 1 and 7, respectively.
2 Petition, page 1.
3 See petition, page 2.
4 See MPEP §§ 608.02(h) and 608.04.

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.[5]

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/323,305 | 11/25/2008 | Seung-Hyun Son | 61720/L550 | 7545 |

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

| EXAMINER |
|---|
| PATEL, NIMESHKUMAR D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2879 | |

| 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.

Betty Powell

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

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JUL 07 2009

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TECHNOLOGY CENTER 2600

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

| | | |
|---|---|---|
| In re Application of | : | |
| SHIMAKAWA, SHIGERU | : | DECISION ON REQUEST TO |
| Application No. 12/323,313 | : | PARTICIPATE IN PATENT |
| Filed: November 25, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. **SKTOSH.006AUS** | : | 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 May 26, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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**INTEL/BSTZ**
**BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP**
**1279 OAKMEAD PARKWAY**
**SUNNYVALE CA 94085-4040**

MAILED

JUN 14 2010

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| | | |
|---|---|---|
| In re Application of | : | |
| Mark E. Scott-Nash | : | |
| Application No. 12/323,316 | : | DECISION ON PETITION |
| Filed: November 25, 2008 | : | |
| Attorney Docket No. 42P28079 | : | |

This is a decision on the petition under 37 CFR 1.59(b), filed January 26, 2010, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the Oath/Declaration filed November 25, 2008, be expunged from the record.

The petition is deficient because there is no statement that:

> (B) 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.

Petitioner is directed to MPEP 724.05(II).

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

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JUL 12 2010

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|---|---|---|
| In re Application of | : | |
| Mark E. Scott-Nash | : | |
| Application No. 12/323,316 | : | DECISION ON PETITION |
| Filed: November 25, 2008 | : | |
| Attorney Docket No. 42P28079 | : | |

This is a decision on the renewed petition under 37 CFR 1.59(b), filed June 29, 2010, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the submission titled "Oath/Declaration" filed November 25, 2008, be expunged from the record.

The first petition under 37 CFR 1.59(b) filed January 26, 2010 was dismissed in a decision mailed June 14, 2010 for failure to comply with the requirements of MPEP 724.05(II).

The renewed petition indicates the "Oath/Declaration" filed November 25, 2008 is actually a copy of an assignment document. Petitioner states that failure to obtain its return would cause irreparable harm because the oath/declaration is not an oath/declaration document.

The file record shows that the assignment document was recorded January 20, 2010. There is no irreparable harm in the fact that a copy of an assignment document is shown in the file record as an oath/declaration. It is clear from reading the document that it is not an oath/declaration. An actual declaration for the application was filed on January 12, 2009 and therefore there is no confusion as to whether the application has a required declaration.

For the reasons presented, 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/323,339 | 11/25/2008 | Seung-Hyun Son | 61721/L550 | 7602 |

7590 07/03/2010
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

| EXAMINER |
|---|
| PATEL, NIMESHKUMAR D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2879 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/03/2010 | PAPER |

# DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/03/2010 RPARKER
11/25/2008 INTEFSW 03005873 031728 12323339
02 FC:1111 540.00 CR



FORM PET651G (Rev. 08/07)

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Washington DC 20005

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| | | |
|---|---|---|
| In re Application of | : | |
| John Todd Isaacs et al. | : | |
| Application No. 12/323,380 | : | DECISION ON PETITION |
| Filed: November 25, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 70778.00602.D1V1 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 6, 2009.

The request is **APPROVED**.

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

The request was signed by Martin R. Bader on behalf of all attorneys of record who are associated with Customer No. 36183.

All attorneys/agents associated with the Customer No. 36183 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 "GenSpera, Inc." 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: GenSpera, Inc.
12100 Wilshire Blvd., 8th Floor
Los Angeles, CA 90025

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/323,380 | 11/25/2008 | John Todd Isaacs | 70778.00602.DIV1 |

**CONFIRMATION NO. 7669**

**POWER OF ATTORNEY NOTICE**

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

*OC000000037182142*

Date Mailed: 08/03/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/jlburke/

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

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20333 SH 249 6TH FLOOR
HOUSTON, TX 77070

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MAY 10 2010

**OFFICE OF PETITIONS**

In re Application of
Morteza Naghavi et al
Application No. 12/323,392
Filed: November 25, 2008
Attorney Docket No. 723-0007US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 5, 2010.

The request is **NOT APPROVED**.

The petition does not satisfies the conditions for Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 in that the s-signature of Marilyn M. Huston is improper. See 37 CFR 1.4(d)(2). Accordingly, this petition can not be treated until a proper signature is received.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Morteza Naghavi
5203 Fieldwood
Houston, TX 77056

cc: Law Office of David McEwing
P.O. Box 231324
Houston, TX 77023

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755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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| | | |
|---|---|---|
| In re Application of | : | |
| Eugene MORKIN, et al | : | |
| Application No. 12/323,405 | : | DECISION ON PETITION |
| Filed: November 25, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 304142001601 | : | 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 18, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Gladys H. Monroy 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

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

| | | |
|---|---|---|
| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,621 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334845US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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**ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.**
**INTELLECTUAL PROPERTY DEPARTMENT**
**P.O. BOX 10064**
**MCLEAN VA 22102-8064**

MAILED

SEP 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ashok Kumar et al | : | DECISION GRANTING STATUS |
| Application No. 12/323,629 | : | UNDER 37 CFR 1.47(a) |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 15086 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed July 13, 2009.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor cannot be located to join in the filing of the above-identified application.

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

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

This application is being referred to the Technology Center AU 1791 for examination in due course.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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PHAN LAW GROUP PLLC
P.O. BOX 748
ALEXANDRIA VA 22313-0748

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MAR 05 2009
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| | | |
|---|---|---|
| In re Application of | : | |
| Stuart et al. | : | |
| Application No. 12/323,638 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 070178-190 | : | |

This is a decision on the petition under 37 CFR 1.182, filed November 26, 2008, requesting that the Office replace the terminal disclaimer filed on November 10, 2005, in Application No. 10/706,454, with the terminal disclaimer accompanying the petition.

The petition is DISMISSED.

## BACKGROUND

On November 10, 2005, applicants filed a terminal disclaimer to obviate a double patenting rejection in Application No. 10/706,454. On December 5, 2006, Application No. 10/706,454 issued as Patent No. 7,144,933. On November 26, 2008, applicants filed the present reissue application and petition under 37 CFR 1.182.

Applicants state that they believe that the original patent is wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, or by reason of other errors. Applicants indicate that at least one error being relied upon as the basis for reissue is that the terminal disclaimer filed November 10, 2005, in Application No. 10/706,454, which gave rise to the patent for which reissue is being sought, erroneously implied that Application No. 10/706,454 and Application No. 10/706,522 were commonly owned. Applicants provided a copy of the terminal disclaimer filed in 10/706,454.

Applicants assert that Application No. 10/706,454 and Application No. 10/706,522 were not commonly owned. Rather, Application No. 10/706,454 was owned by Eastman Chemical Company by virtue of an assignment from the inventors, which was recorded in the USPTO on March 3, 2004, at Reel 014393, Frame 0759. In contrast, Application No. 10/706,522 was jointly owned by Eastman Chemical Company and PRI Asphalt Technologies, Inc. by virtue of an assignment from the inventors, which was recorded in the USPTO on October 6, 2004, at Reel 015222, Frame 0233.

On petition, applicants request that the Office replace the terminal disclaimer filed in Application No. 10/706,454 with the terminal disclaimer filed November 26, 2008, which accompanies this petition. Applicants assert that the terminal disclaimer of November 26, 2008, corrects the error that the two applications were commonly owned and states that the owner agrees to waive the right to separately enforce any patent granted on the Application No. 10/706,454 and any patent granted on Application No. 10/706,522, and that any patent granted on the Application No. 10/706,454 is enforceable only for and during such period that the two are not separately enforced. Additionally, applicants submitted a preliminary amendment to the specification, filed November 26, 2008, disclosing the names of the parties to the joint research agreement pursuant to 35 U.S.C. 103(c)(2)(C) and 37 CFR 1.71(g).

DECISION

Initially, it is noted that it is the policy of the Office not to withdraw a terminal disclaimer once the patent has issued. See MPEP 1490(VII)(B). However, the Office will allow applicants to record a new terminal disclaimer in this application. After reviewing the terminal disclaimer, filed November 26, 2008, the Office has determined that it is not adequate and cannot be accepted as currently filed. It is undisputed that Application No. 10/706,454 and Application No. 10/706,522 are not commonly owned. Nevertheless, a timely filed terminal disclaimer in compliance with 37 CFR 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent claims an invention made as a result of activities undertaken within the scope of a joint research agreement. However, in this instance, applicants have not met the requirements of 35 U.S.C. 103(c)(2) for establishing the existence of a joint research agreement. Furthermore, the new terminal disclaimer of November 26, 2008, does not track the language of 37 CFR 1.321(d)(3).

Pursuant to 37 CFR 1.321(d),

> A terminal disclaimer, when filed in a patent application or in a reexamination proceeding to obviate double patenting based upon a patent or application that is not commonly owned but was disqualified under 35 U.S.C. 103(c) as resulting from activities undertaken within the scope of a joint research agreement, must:

(1) Comply with the provisions of paragraphs (b)(2) through (b)(4) of this section;

(2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application or be signed in accordance with paragraph (a)(1) of this section if filed in a reexamination proceeding;

(3) Include a provision waiving the right to separately enforce any patent granted on that application or any patent subject to the reexamination proceeding and the patent or any patent granted on the application which formed the basis for the double patenting, and that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent and the patent, or any patent granted on the application, which formed the basis for the double patenting are not separately enforced.

If applicants wish to avail themselves of the provisions of 37 CFR 1.321(d), applicants must establish the existence of a joint research agreement. However, applicants did not provide a statement to the effect that the subject matter sought to be disqualified and the claimed invention were made by or on the behalf of parties to a joint research agreement within the meaning of 35 U.S.C. 103(c)(3),[1] that the joint research agreement was in effect on or before the claimed invention was made, and that the claim invention was made as a result of activities undertaken within the scope of the joint agreement. See 35 U.S.C. 103(c)(2); *Changes To Implement the Cooperative Research and Technology Enhancement Act of 2004, Final rule*, 70 Fed. Reg. 54259 (Sep. 14, 2005); MPEP 706.02(l)(1). The statement should be contained in a separate paper and be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4. Evidence to support the statement is not required, except in the very rare circumstance that a patent examiner has independent evidence that casts doubt on the accuracy of the statement.

## CONCLUSION

The petition under 37 CFR 1.182 is DISMISSED. Before the Office will permit applicants to record a new terminal disclaimer, applicants must file a "Renewed Petition under 37 CFR 1.182" within TWO (2) MONTHS of the mail date of this decision, accompanied by a new terminal disclaimer in compliance with 37 CFR 1.321(d) and 35 U.S.C. 103(c)(2). The TWO-MONTH period is not extendable under 37 CFR 1.136. No additional fee for filing a renewed petition is necessary.

[1] The term 'joint research agreement is defined as "... a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention." 35 U.S.C. 103(c)(3).

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions related to this decision may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Anthony Knight
Supervisor
Office of Petitions

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

PHAN LAW GROUP PLLC
P.O. BOX 748
ALEXANDRIA VA 22313-0748

MAILED

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Stuart et al. | : | |
| Application No. 12/323,638 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 070178-190 | : | |

This is a decision on the renewed petition under 37 CFR 1.182, filed March 19, 2009, requesting that the Office permit applicants to record the terminal disclaimer accompanying this petition.

The petition is GRANTED.

On November 10, 2005, applicants filed a terminal disclaimer to obviate a double patenting rejection in Application No. 10/706,454. On December 5, 2006, Application No. 10/706,454 issued as Patent No. 7,144,933. On November 26, 2008, applicants filed the present reissue application and a petition under 37 CFR 1.182.

In the initial petition, applicants stated that they believed that the original patent is wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, or by reason of other errors. Applicants indicated that at least one error being relied upon as the basis for reissue is that the terminal disclaimer filed November 10, 2005, in Application No. 10/706,454, which gave rise to the patent for which reissue is being sought, erroneously implied that Application No. 10/706,454 and Application No. 10/706,522 were commonly owned. Applicants provided a copy of the terminal disclaimer filed in 10/706,454.

Applicants asserted that Application No. 10/706,454 and Application No. 10/706,522 were not commonly owned. Rather, Application No. 10/706,454 was owned by Eastman Chemical Company by virtue of an assignment from the inventors, which was recorded in the USPTO on March 3, 2004, at Reel 014393, Frame 0759. In contrast, Application No. 10/706,522 was

jointly owned by Eastman Chemical Company and PRI Asphalt Technologies, Inc. by virtue of an assignment from the inventors, which was recorded in the USPTO on October 6, 2004, at Reel 015222, Frame 0233.

Applicants requested that the Office replace the terminal disclaimer filed in Application No. 10/706,454 with the terminal disclaimer filed November 26, 2008, which accompanied the initial petition. Applicants asserted that the terminal disclaimer of November 26, 2008, corrects the error that the two applications were commonly owned and states that the owner agrees to waive the right to separately enforce any patent granted on the Application No. 10/706,454 and any patent granted on Application No. 10/706,522, and that any patent granted on the Application No. 10/706,454 is enforceable only for and during such period that the two are not separately enforced. Additionally, applicants submitted a preliminary amendment to the specification, filed November 26, 2008, disclosing the names of the parties to the joint research agreement pursuant to 35 U.S.C. 103(c)(2)(C) and 37 CFR 1.71(g).

On March 5, 2009, the Office mailed a decision dismissing the initial petition under 37 CFR 1.182. In the decision, the Office noted that it is the policy of the Office not to withdraw a terminal disclaimer once the patent has issued. See MPEP 1490(VII)(B). However, the Office stated that it would allow applicants to record a new terminal disclaimer in the application upon filing a grantable petition under 37 CFR 1.182. Further, the Office informed applicants that the terminal disclaimer, filed November 26, 2008, was not adequate and could not be accepted as filed. The Office concluded that applicants did not meet the requirements of 35 U.S.C. 103(c)(2) for establishing the existence of a joint research agreement and that the terminal disclaimer of November 26, 2008, did not track the language of 37 CFR 1.321(d)(3).

The decision informed applicants that before the Office would permit them to record a new terminal disclaimer, applicants must file a "Renewed Petition under 37 CFR 1.182" within TWO (2) MONTHS of the mail date of the decision, accompanied by: (1) a new terminal disclaimer in compliance with 37 CFR 1.321(d) and 35 U.S.C. 103(c)(2), and (2) a statement to the effect that the subject matter sought to be disqualified and the claimed invention were made by or on the behalf of parties to a joint research agreement within the meaning of 35 U.S.C. 103(c)(3),[1] that the joint research agreement was in effect on or before the claimed invention was made, and that the claim invention was made as a result of activities undertaken within the scope of the joint agreement. See 35 U.S.C. 103(c)(2); *Changes To Implement the Cooperative Research and Technology Enhancement Act of 2004, Final rule*, 70 Fed. Reg. 54259 (Sep. 14, 2005); MPEP 706.02(l)(1).

On March 19, 2009, applicants timely filed the present renewed petition. Additionally, applicants submitted a new terminal disclaimer in compliance with 37 CFR 1.321(d) and 35

[1] The term 'joint research agreement is defined as "... a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention." 35 U.S.C. 103(c)(3).

U.S.C. 103(c)(2) and the statement required by the CREATE Act. As applicants have met the requirements of 35 U.S.C. 103(c)(2) for establishing the existence of a joint research agreement and provided a new terminal disclaimer that tracks the language of 37 CFR 1.321(d)(3), the Office will permit applicants to record the terminal disclaimer in the application.

This application is being referred to Technology Center Art Unit 1796 for examination in due course.

Any questions related to this decision may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Anthony Knight
Supervisor
Office of Petitions

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PHAN LAW GROUP PLLC
P.O. BOX 748
ALEXANDRIA VA 22313-0748

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Stuart et al. | : | |
| Application No. 12/323,638 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 070178-190 | : | |

This is a decision on the "REQUEST FOR CLARIFICATION/RECONSIDERATION OF PETITION DECISION" filed July 7, 2009.

The petition is GRANTED.

On November 10, 2005, applicants filed a terminal disclaimer to obviate a double patenting rejection in Application No. 10/706,454. On December 5, 2006, Application No. 10/706,454 issued as Patent No. 7,144,933. On November 26, 2008, applicants filed the present reissue application and a petition under 37 CFR 1.182.

In the initial petition, applicants stated that they believed that the original patent is wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, or by reason of other errors. Applicants indicated that at least one error being relied upon as the basis for reissue is that the terminal disclaimer filed November 10, 2005, in Application No. 10/706,454, which gave rise to the patent for which reissue is being sought, erroneously implied that Application No. 10/706,454 and Application No. 10/706,522 were commonly owned. Applicants provided a copy of the terminal disclaimer filed in 10/706,454.

Applicants asserted that Application No. 10/706,454 and Application No. 10/706,522 were not commonly owned. Rather, Application No. 10/706,454 was owned by Eastman Chemical Company by virtue of an assignment from the inventors, which was recorded in the USPTO on March 3, 2004, at Reel 014393, Frame 0759. In contrast, Application No. 10/706,522 was

jointly owned by Eastman Chemical Company and PRI Asphalt Technologies, Inc. by virtue of an assignment from the inventors, which was recorded in the USPTO on October 6, 2004, at Reel 015222, Frame 0233.

Applicants requested that the Office replace the terminal disclaimer filed in Application No. 10/706,454 with the terminal disclaimer filed November 26, 2008, which accompanied the initial petition. Applicants asserted that the terminal disclaimer of November 26, 2008, corrects the error that the two applications were commonly owned and states that the owner agrees to waive the right to separately enforce any patent granted on the Application No. 10/706,454 and any patent granted on Application No. 10/706,522, and that any patent granted on the Application No. 10/706,454 is enforceable only for and during such period that the two are not separately enforced. Additionally, applicants submitted a preliminary amendment to the specification, filed November 26, 2008, disclosing the names of the parties to the joint research agreement pursuant to 35 U.S.C. 103(c)(2)(C) and 37 CFR 1.71(g).

On March 5, 2009, the Office mailed a decision dismissing the initial petition under 37 CFR 1.182. In the decision, the Office noted that it is the policy of the Office not to withdraw a terminal disclaimer once the patent has issued. See MPEP 1490(VII)(B). However, the Office stated that it would allow applicants to record a new terminal disclaimer in the application upon filing a grantable petition under 37 CFR 1.182. Further, the Office informed applicants that the terminal disclaimer, filed November 26, 2008, was not adequate and could not be accepted as filed. The Office concluded that applicants did not meet the requirements of 35 U.S.C. 103(c)(2) for establishing the existence of a joint research agreement and that the terminal disclaimer of November 26, 2008, did not track the language of 37 CFR 1.321(d)(3).

The decision informed applicants that before the Office would permit them to record a new terminal disclaimer, applicants must file a "Renewed Petition under 37 CFR 1.182" within TWO (2) MONTHS of the mail date of the decision, accompanied by: (1) a new terminal disclaimer in compliance with 37 CFR 1.321(d) and 35 U.S.C. 103(c)(2), and (2) a statement to the effect that the subject matter sought to be disqualified and the claimed invention were made by or on the behalf of parties to a joint research agreement within the meaning of 35 U.S.C. 103(c)(3),[1] that the joint research agreement was in effect on or before the claimed invention was made, and that the claim invention was made as a result of activities undertaken within the scope of the joint agreement. See 35 U.S.C. 103(c)(2); *Changes To Implement the Cooperative Research and Technology Enhancement Act of 2004, Final rule*, 70 Fed. Reg. 54259 (Sep. 14, 2005); MPEP 706.02(l)(1).

On March 19, 2009, applicants timely filed a renewed petition. Additionally, applicants submitted a new terminal disclaimer in compliance with 37 CFR 1.321(d) and 35

[1] The term 'joint research agreement is defined as "... a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention." 35 U.S.C. 103(c)(3).

U.S.C. 103(c)(2) and the statement required by the CREATE Act. On May 8, 2009, the Office mailed a decision granting the renewed petition and permitting applicants to record the terminal disclaimer of March 19, 2009, in the application. Thereafter, on July 7, 2009, applicants filed the present REQUEST FOR CLARIFICATION/RECONSIDERATION OF PETITION DECISION.

As applicants have met the requirements of 35 U.S.C. 103(c)(2) for establishing the existence of a joint research agreement and provided a new terminal disclaimer that tracks the language of 37 CFR 1.321(d)(3), the Office will accept the new terminal disclaimer filed March 19, 2009, in place of the previously filed terminal disclaimer.

Any questions related to this decision may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Anthony Knight
Supervisor
Office of Petitions

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TECHNOLOGY CENTER 2600

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

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|---|---|---|
| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,662 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334840US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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ALEXANDRIA VA 22314

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|---|---|---|
| In re Application of<br>CHUJOH, TAKESHI<br>Application No. 12/323,712<br>Filed: November 26, 2008<br>Attorney Docket No. 334830US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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**Dechert, LLP**
**P.O. Box 390460**
**Mountain View, CA 94039-0460**

| | | |
|---|---|---|
| In re Application of | : | |
| Maj Hedtjarn | : | |
| Application No. 12/323,744 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 366929-044US1 (102328) | : | 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 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Anna D. Di Gabriele Petti on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

All future correspondence will be directed to the assignee. The address is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Enzon Pharmaceuticals, Inc.
685 Route 202/206
Bridgewater, NJ 08807

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 |
|---|---|---|---|
| 12/323,744 | 11/26/2008 | Maj Hedtjarn | 366929-044US1 (102328) |

**CONFIRMATION NO. 8322**

**POWER OF ATTORNEY NOTICE**

37509
DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

*OC000000038044821*

Date Mailed: 09/30/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2009.

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

/kainabinet/

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

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1940 DUKE STREET
ALEXANDRIA VA 22314

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|---|---|---|
| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,762 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334820US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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www.uspto.gov

CST

March 16, 2009

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| In re application of<br>Masaaki Miyoshi et al<br>Serial No. 12/323,768<br>Filed: November 26, 2008<br>For: PNEUMATIC TIRE | :<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON REQUEST TO<br>PARTICIPATE IN PATENT<br>PROSECUTION HIGHWAY<br>PROGRAM AND<br>PETITION TO MAKE SPECIAL<br>UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed November 26, 2008.

The request and petition are **GRANTED**.

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

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

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

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

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

(5) Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
      ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
      Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
   c. A statement that the English translation is accurate;

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

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

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

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

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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United States Patent and Trademark Office
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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chun-Seok Jeong | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632028 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/323,807 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 11/26/2008 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

| | | |
|---|---|---|
| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,824 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334850US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 0 9 2010

Rankin, Hill & Clark LLP
38210 Lgenn Avenue
Willoughby, OH 44094-7808

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|---|---|
| In re application of<br>Makoto Sekiya<br>Application No. 12/323,851<br>Filed: November 26, 2008<br>For: MOBILE APPARATUS AND CONTROL PROGRAM THEREFOR | **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 May 07, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

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

The request to participate in the PPH pilot program and petition fail to include:
(3) Claims of the U.S. Application that sufficiently corresponds to the allowable claims of the JPO application. Specifically, in claim 19, the recitation "the mobile apparatus comprises the control device and has an operation controlled by the control device to autonomously move along a target trajectory representing changes in a target position defined in a two dimensional model space" is missing from allowed claim 1; therefore, it does not correspond with the original allowed claim 1 in the Japanese patent application 2007-311477, resulting in a change in scope from that of the allowed Japanese claim. 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 Mikado Buiz, Quality Assurance Specialist, at (571) 272-6578.

/Mikado Buiz/

Mikado Buiz,
Quality Assurance Specialist
Technology Center 3600

MB/MB: 07/08/10

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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GROOVER & ASSOCIATES
BOX 802889
DALLAS, TX 75380-2889

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OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Lawrence James Cauller, et al. | : | |
| Application No. 12/323,854 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-28 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

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

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 12, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/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

**LEHMAN BROTHERS INC.**
**C/O MORGAN, LEWIS & BOCKIUS, LLP**
**1111 PENNSYLVANIA AVE., N.W.**
**WASHINGTON, DC 20004**

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JUL 31 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Peter E. COLEMAN, et al | : | DECISION REFUSING STATUS |
| Application No. 12/323,859 | : | UNDER 37 CFR 1.47(a) |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 101612-5153US | : | |

This is in response to the petition under 37 CFR 1.47(a), filed April 15, 2009.

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 item (1) 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 inventors James Vergara, Akshay Murthy and Daniel Singer, 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 non-signing inventors James Vergara, Akshay Murthy and Daniel Singer. 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 the non signing inventors' personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventors' last known address via US Postal Service with a request for a forwarding addressor return receipt. Therefore, at the very least, petitioner should mail correspondence to the inventors' last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to all of the non signing inventors' address, return receipt requested, along with cover letter of instructions which include a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventors, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicants 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.

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 Diane Goodwyn at (571) 272-6735.

for Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MAILED**

APR 07 2010

**OFFICE OF PETITIONS**

**DAVID C. LEE**
**C/O SILLS, CUMMIS AND GROSS**
**1 ROCKEFELLER PLAZA**
**NEW YORK, NY 10020**

| | | |
|---|---|---|
| In re Application of | : | |
| Peter W. COLEMAN, et al | : | DECISION GRANTING STATUS |
| Application No. 12/323,859 | : | UNDER 37 CFR 1.47(a) |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 101612-5153-US | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 24, 2010.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors have 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 Data Management for pre-examination processing.

Telephone inquiries regarding this decision should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examner
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

**JAMES VERGARA**
**SWAP FINANCIAL GROUP**
**76 SOUTH ORANGE AVENUE, SUITE 6**
**SOUTH ORANGE, NJ 07079**

**MAILED**

APR 07 2010

**OFFICE OF PETITIONS**

In re Application of :
Peter A. COLEMAN, et al
Application No. 12/323,859 :
Filed: November 26, 2008
For: Methods and Systems for Providing A :
Municipal Index Swap :

Mr. Vergara:

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

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

Telephone inquiries regarding this communication should be directed to Diane C. Goodwyn at (571) 272-6735. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-308-2733. 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).

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: DAVID C. LEE
C/O SILLS, CUMMIS AND GROSS
1 ROCKEFELLER PLAZA
NEW YORK, NY 10020

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MAILED**

APR 07 2010

**OFFICE OF PETITIONS**

**DANIEL SINGER**
**257 WEST 17TH STREET APT. 3A**
**NEW YORK, NY 10011**

In re Application of :
Peter A. COLEMAN, et al
Application No. 12/323,859 :
Filed: November 26, 2008
For: Methods and Systems for Providing A :
Municipal Index Swap :

Mr. Singer:

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

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

Telephone inquiries regarding this communication should be directed to Diane C. Goodwyn at (571) 272-6735. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-308-2733. 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).

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: DAVID C. LEE
C/O SILLS, CUMMIS AND GROSS
1 ROCKEFELLER PLAZA
NEW YORK, NY 10020

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APR 07 2010

OFFICE OF PETITIONS

**AKSHAY MURTHY**
**146 WEST 57TH STREET APT. 42F**
**NEW YORK, NY 10019**

In re Application of :
Peter A. COLEMAN, et al
Application No. 12/323,859 :
Filed: November 26, 2008
For: Methods and Systems for Providing A :
Municipal Index Swap :

Mr. Murthy:

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

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

Telephone inquiries regarding this communication should be directed to Diane C. Goodwyn at (571) 272-6735. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-308-2733. 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).

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: DAVID C. LEE
C/O SILLS, CUMMIS AND GROSS
1 ROCKEFELLER PLAZA
NEW YORK, NY 10020

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United States Patent and Trademark Office
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1940 DUKE STREET
ALEXANDRIA VA 22314

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|---|---|---|
| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,867 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334814US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 12/323,892 | 11/26/2008 | Young Gi Kim | L&K115 | 8588 |

7590 03/26/2010
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

| EXAMINER |
|---|
| RODRIGUEZ, CRIS LOIREN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3732 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/26/2010 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 03/26/2010 [illegible]
[illegible]
[illegible] -270.00 OP
[illegible] -222.00 OP



FORM PET651G (Rev. 08/07)

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DEC 08 2009

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

| | | |
|---|---|---|
| In re application of<br>Hiroyuki Kurokawa<br>Application No. 12/323,898<br>Filed: November 26, 2008<br>For: SEAT HOLDING PORTION STRUCTURE | :<br>:<br>:<br>:<br>:<br>: | **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 December 3, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of 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).

In light of the preliminary amendment filed December 3, 2009 with the petition, the request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

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

The application is being forwarded to the examiner for action on the merits commensurate with this decision as soon as any pre-exam processing has been completed.

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

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 12/7/09

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TECHNOLOGY CENTER 2600

LEVEQUE INTELLECTUAL PROPERTY LAW, P.C.
221 E. CHURCH STREET
FREDERICK MD 21701

In re Application of:
CELLI, MASSIMILIANO, et al.
Serial No.: 12/323,900
Filed: November 26, 2008
Attorney Docket number: **FR920070132US2**
Title: **SYSTEM AND METHOD TO HANDLE PHONE LINE SERVICES DURING MODEM DIAL-UP CONNECTION**

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

This is a decision on the petition filed on November 26, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

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

## REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II, item 6.5.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 6.5 above, the "Accelerated Examination Support Document", is deficient because section 9(E) fails to include a showing of where ***each limitation of the claim*** finds support under the first paragraph of 35 USC 112 in the written description of the U.S. Application Number 12/108,724. Petitioner provided a statement under 9(E) that this application does not claim benefit of any application. However, the specification of this application claims benefit to the U.S. Application Number 12/108,724. Therefore, the petition fails to include a showing of where ***each limitation of the claim*** finds support under the first paragraph of 35 USC 112 in the written description of the U.S. Application Number 12/108,724.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
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LEVEQUE INTELLECTUAL PROPERTY LAW, P.C.
221 E. CHURCH STREET
FREDERICK MD 21701

In re Application of:
CELLI, MASSIMILIANO, et al.
Serial No.: 12/323,900
Filed: November 26, 2008

Title: **SYSTEM AND METHOD TO HANDLE PHONE LINE SERVICES DURING MODEM DIAL-UP CONNECTION**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

The petition on request for reconsideration to make the application special filed March 3, 2009 is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:

If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not

file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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| | | |
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| In re Application of | : | |
| Lawrence James Cauller | : | |
| Application No. 12/323,904 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-30 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 11, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/323,924 | 11/26/2008 | Rene P. Helbing | 1089.P0004US | 8648 |

79662 7590 02/24/2010
James M. Wu
JW Law Group
84 W. Santa Clara Street
Suite 820
San Jose, CA 95113

| EXAMINER |
|---|
| MALDONADO, JULIO J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2823 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/24/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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James M. Wu
JW Law Group
84 W. Santa Clara Street
Suite 820
San Jose CA 95113

| | | |
|---|---|---|
| In re Application of | : | |
| Helbing et al. | : | DECISION ON PETITION |
| Application No. 12/323,924 | : | TO MAKE SPECIAL UNDER |
| Filed: 26 November 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 1089.P0004US | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 31 January 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2823 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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1940 DUKE STREET
ALEXANDRIA VA 22314

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| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,930 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334861US2SRD DIV | : | 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 December 08, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
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| In re Application of | : | |
| Lawrence James Cauller | : | |
| Application No. 12/323,934 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-31 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 11, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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| In re Application of | : | |
| Lawrence James Cauller, et al. | : | |
| Application No. 12/323,952 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-32 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 11, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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| In re Application of | : | |
| CHUJOH, TAKESHI | : | DECISION ON REQUEST TO |
| Application No. 12/323,966 | : | PARTICIPATE IN PATENT |
| Filed: November 26, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 334855US2SRD DIV | : | 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 26, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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| In re Application of | : | |
| Lawrence James Cauller | : | |
| Application No. 12/323,969 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-46 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 15, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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**GE Global Patent Operation**
**2 Corporate Drive, Suite 648**
**Shelton CT 06484**

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JAN 20 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Hidding et al. | : | DECISION ON PETITION |
| Application No. 12/323,985 | : | TO MAKE SPECIAL UNDER |
| Filed: November 26, 2008 | : | GREEN TECHNOLOGIES |
| Attorney Docket No. 228753 | : | PILOT PROGRAM |

This is a decision on the petition, filed December 21, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102(c)(2) and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be

accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks items 1 and 5 as explained below.

In regard to item 1, this application has been classified in an area (USPC class 415, subclass 124.1) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

In regard to item 5, although petitioner states that the present invention materially contributes to the development of renewable energy resources or energy conservation, the disclosure is not clear on its face that the claimed invention makes such a material contribution. In particular, the disclosed invention relates to a connection arrangement used in association with the drive shafts of a wind turbine. Any renewed petition must be accompanied by a statement explaining how such a structure satisfies the materiality standard.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6692. 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 in its regular turn.

Christopher Bottorff
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/323,985 | 11/26/2008 | Edwin Hidding | 228753 | 8763 |

52082 7590 06/30/2010
General Electric Company
GE Global Patent Operation
2 Corporate Drive, Suite 648
Shelton, CT 06484

| EXAMINER |
|---|
| LOOK, EDWARD K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3745 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/30/2010 | 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):

gpo.mail@ge.com
allyson.carnaroli@ge.com

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General Electric Company
GE Global Patent Operation
2 Corporate Drive, Suite 648
Shelton CT 06484

| | | |
|---|---|---|
| In re Application of | : | |
| Philipp Klausman and Thorsten Honekamp | : | DECISION ON PETITION |
| Application No. 12323985 | : | TO MAKE SPECIAL UNDER |
| Filed: November 26, 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 230952-1 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 06/16/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

Application No. 12323985

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Henry Yuen at 571-272-4856.

The application is being forwarded to the Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

/Henry Yuen/

Henry Yuen
Quality Assurance Specialist
Technology Center 3700

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P.O. Box 1450
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GROOVER & ASSOCIATES
BOX 802889
DALLAS, TX 75380-2889

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MAR 0 2 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Lawrence James Cauller | : | |
| Application No. 12/324,000 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-47 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 10, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 29 2009

OFFICE OF PETITIONS

**Dechert LLP**
**P.O. Box 390460**
**Mountain View, CA 94039-0460**

| | | |
|---|---|---|
| In re Application of | : | |
| Jesper Worm | : | |
| Application No. 12/324,033 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 213-1342-U | : | 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 28, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Dechert, LLP has been revoked by the assignee of the patent application on September 24, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Lucas & Mercanti, LLP
475 Park Avenue South
15th Floor
New York, NY 10016

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 12/324,033 | 11/26/2008 | Jesper Worm | 366929-043US1 (102332) |

**CONFIRMATION NO. 8869**

**POWER OF ATTORNEY NOTICE**

37509
DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

*OC000000038043901*

Date Mailed: 09/30/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/24/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kainabinet/

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Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DALLAS, TX 75380-2889

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| | | |
|---|---|---|
| In re Application of | : | |
| Lawrence James Cauller, et al. | : | |
| Application No. 12/324,044 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. MTSP-48 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 8, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes the required doctor's statement from applicant Lawrence Cauller's physician. 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 to await a reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed December 15, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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**KENYON & KENYON LLP**
**1500 K STREET, NW**
**WASHINGTON DC 20005-1257**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Gary Carreau et al | : | |
| Application No. 12/324,121 | : | DECISION GRANTING PETITION |
| Filed: November 26, 2008 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 13641-380301 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 June 7, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2819 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.*

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Quinn Law Group, PLLC
39555 Orchard Hill Place
Suite 520
Novi MI 48375

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Racicot and Jones :
Application No. 12/324,167 : DECISION REFUSING STATUS
Filed: November 26, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No. **P007473-NAPD-LCH** :
For: CHROME-PLATED HUBCAP AND A WHEEL ASSEMBLY FOR A VEHICLE

This is a decision on the petition under 37 CFR 1.47(a), filed March 9, 2009.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on November 26, 2008, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on December 10, 2008, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on March 9, 2009, with a request for an extension of time within the first month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) as set forth above.

Section 409.03(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not, itself, suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor . . .
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The petition and exhibits speaks to the circumstances of the refusal of the inventor to execute the declaration, but only indicates that the Inventor's Declaration and Assignment were sent to the inventor. There is not indication that a complete copy of the application papers (specification, claims, drawings, oath and declaration) was presented to the inventor. Petitioner must demonstrate that an effort was made to present a complete copy of the application papers to the inventor before the inventor can be said to have refused to join the prosecution of the application. Any renewed petition must, therefore, establish that an attempt was made to present a complete copy of the application papers to the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Novi MI 48375

**MAILED**

JUN 19 2009

OFFICE OF PETITIONS

In re Application of :
Racicot and Jones :
Application No. 12/324,167 : DECISION ACCORDING STATUS
Filed: November 26, 2008 : UNDER 37 CFR 1.47(a)
Attorney Docket No. **P007473-NAPD-LCH** :
For: CHROME-PLATED HUBCAP AND A WHEEL ASSEMBLY FOR A VEHICLE

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 11, 2009.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on November 26, 2008, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on December 10, 2008, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant renewed petition was filed on May 11, 2009.

Petitioner has shown that inventor Jones has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Patent Application Processing for further 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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FEB 16 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO IL 60610

In re Application of
Grant T. Hoffman
Application No. 12/324,199
Filed: November 26, 2008
Attorney Docket No. 8627/2154

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 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 James P. Naughton on behalf of all attorneys of record who are associated with customer No. 48003. All attorneys/agents associated with the Customer Number 48003 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 the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: COOK INCORPORATED
750 N. DANIELS WAY
BLOOMINGTON, IN 47404

cc: BUCHANAN INTELLECTUAL PROPERTY
OFFICE, LLC
PO BOX 700
PERRYSBURG, OH 43552-0700

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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 |
|---|---|---|---|
| 12/324,199 | 11/26/2008 | Grant T. Hoffman | 8627-2154 (PA-6265-RFB) |

**CONFIRMATION NO. 9167**

**POWER OF ATTORNEY NOTICE**

48003
BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

*OC000000040069892*

Date Mailed: 02/08/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/15/2009.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/324,213 | 11/26/2008 | Kevin Laughton Cunningham | 013176/USA/SBG/SOLAR-C/AG | 9197 |

67251 7590 02/08/2010
DIEHL SERVILLA LLC
77 BRANT AVENUE
SUITE 210
CLARK, NJ 07066

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1795 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/08/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dsiplaw.com
jescobar@dsiplaw.com
dwarrick@dsiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DIEHL SERVILLA LLC
77 BRANT AVENUE
SUITE 210
CLARK NJ 07066

FEB 08 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Cunningham et al. | : | DECISION ON PETITION |
| Application No. 12/324,213 | : | TO MAKE SPECIAL UNDER |
| Filed: 11/26/2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. **013176/USA/SBG/SOLAR-C/AG** | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 12/14/2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face

that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item(s) 2.

In regard to item 2, petitioner should note that a review of the application claims has been made for the purposes of determining the number of claims contained therein. This application contains more than 3 independent claims and/or more than 20 total claims. As set forth in the Notice, if the application contains more than 3 independent claims or more than 20 total claims, it will not be eligible to participate in the "Pilot Program for Green Technologies Including Greenhouse Gas Reduction."

Any reconsideration of this decision should be submitted through the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen.

Telephone inquiries concerning this decision should be directed to Tom Dunn at 571-272-1171.

The application is being forwarded to the Technology Center Art Unit 1795 for action in its regular turn.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/324,213 | 11/26/2008 | Kevin Laughton Cunningham | 013176/USA/SBG/SOLAR-C/AG | 9197 |

67251 7590 03/17/2010
DIEHL SERVILLA LLC
77 BRANT AVENUE
SUITE 210
CLARK, NJ 07066

| EXAMINER |
|---|
| MEKHLIN, ELI S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1795 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/17/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dsiplaw.com
jescobar@dsiplaw.com
dwarrick@dsiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

DIEHL SERVILLA LLC
77 BRANT AVENUE
SUITE 210
CLARK NJ 07066

MAR 17 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Cunningham et al. | : | DECISION ON PETITION |
| Application No. 12/324213 | : | TO MAKE SPECIAL UNDER |
| Filed: 11/26/2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. **013176/USA/SBG/SOLAR-C/AG** | : | PILOT PROGRAM |

This is a decision on the request for reconsideration, filed 2/23/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition

must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Tom Dunn at 571-272-1171.

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

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Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor MI 48104

**MAILED**

JUN 05 2009

OFFICE OF PETITIONS

In re Application of
Nigam, et al.
Application No.: 12/324,235
Filed: November 26, 2008
Attorney Docket No.: 13364-005

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed May 12, 2009.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), petitioner has failed to establish that the non-signing inventor has refused to sign the declaration.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Mr. El-Sayed must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioner can show that Mr. El-Sayed was mailed

or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioner will have satisfied this requirement.

Petitioner is informed that e-mailing is generally not accepted as a means to communicate with non-signing inventors. This is because the Office cannot know definitely if the message was received; people are not as careful in deleting e-mails as they are in throwing out mail, as shown by bulk folder deletions and the fact that some people might not check e-mails frequently; the Office does not know if the recipient has the program to open the specific attachment; and PTO guidelines regarding accepting e-mail reflects the fact that the Office does not have the same confidence in e-mail as it does in USPS service.

The Office typically requires documentary evidence of successful e-mailing in the form of a response e-mail from the non-signing inventor in which the inventor acknowledges receipt of the e-mail and his ability to read the attachments. Sending an e-mail alone is not sufficient. Just because a message was displayed on the recipient's computer does not mean that the recipient was able to access the attachments.

The fact that Mr. El-Sayed refused to execute assignment papers for a related international application does not establish his refusal to join in the filing of the subject application.

Petitioner is encouraged to utilize USPS service when sending Mr. El-Sayed a copy of the application and another copy of the declaration for his execution.

Pursuant to petitioner's authorization, deposit account no. 23-1925 will be charged the required $200.00 Rule 47 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

**By hand:** U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

**By FAX:** (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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
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www.uspto.gov

Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor MI 48104

MAILED

SEP 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Nigam, et al. | : | DECISION GRANTING STATUS |
| Application No. 12/324,235 | : | UNDER 37 CFR 1.47(a) |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 13364-005 | : | |

This is a decision on the petition filed, September 8, 2009, requesting reconsideration of a decision mailed June 5, 2009, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Mohamed E.M. El-Sayed, has constructively refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOHAMED E.M. EL-SAYED
1730 GOLF RIDGE DRIVE SOUTH
BLOOMFIELD HILLS MI 48302

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
Nigam, et al. :
Application No. 12/324,235 : LETTER
Filed: November 26, 2008 :
Attorney Docket No. 13364-005 :

Dear Mr. El-Sayed:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Attorney of Record: Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor MI 48104

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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**NELSON MULLINS RILEY & SCARBOROUGH LLP**
**IP DEPARTMENT**
**100 NORTH TRYON STREET**
**42ND FLOOR**
**CHARLOTTE, NC 28202-4000**

COPY MAILED

DEC 03 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Stroup et al. | : | DECISION ON PETITION |
| Application No. 12/324,245 | : | TO WITHDRAW |
| Filed: November 26, 2008 | : | FROM RECORD |
| Attorney Docket No. 41832/5391 | : | |

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 previous power of attorney was revoked by the assignee 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**CHRISTOPHER J. KULISH, P.C.**
**1531 NORWOOD AVENUE**
**BOULDER CO 80304**

MAILED

AUG 21 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Deevin Stanley Avairis | : | |
| Application No. 12/324,294 | : | DECISION ON PETITION |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 73321.0001 | : | |

This is a decision on the petition under 37 CFR 1.182, filed, April 16, 2009, to change the name of inventor "Devon Stanley Houser" to – Deevin Stanley Avairis –.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Christopher J. Kulish appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1794 for further examination on the merits.

/SDB/

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
www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 12/324,294 | 11/26/2008 | 1794 | 527 | 73321.0001 | 14 | 3 |

**CONFIRMATION NO. 9360**

**CORRECTED FILING RECEIPT**

25928
CHRISTOPHER J. KULISH, P.C.
1531 Norwood Avenue
Boulder, CO 80304

*OC000000037334727*

Date Mailed: 08/13/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Deevin Stanley Avairis, Sooke, CANADA;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/990,605 11/27/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/08/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/324,294**

**Projected Publication Date:** To Be Determined - pending completion of Missing Parts

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

EMPTYING MECHANISM FOR FOOD STORAGE CONTAINER

**Preliminary Class**

426

## 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
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**WINSTEAD PC (FCC-FKI)**
**HENRY L. EHRLICH**
**P.O. BOX 50784**
**DALLAS TX 75201**

COPY MAILED

OCT 13 2009

OFFICE OF PETITIONS

In re Application of
Domec et al.
Application No. 12/324,313
Filed: November 26, 2008
Attorney Docket No. 21903-P004US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 11/761,185, filed June 11, 2007, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, 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 above-noted, 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 the instant application is entitled to the benefit of the prior-filed application. In order for the instant 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 instant application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 1793 for appropriate action on the amendment filed August 17, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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
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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 |
|---|---|---|---|---|---|---|
| 12/324,313 | 11/26/2008 | 1793 | 3508 | 21903-P004US | 64 | 3 |

**CONFIRMATION NO. 9401**

**CORRECTED FILING RECEIPT**

*OC000000038183226*

75548
Winstead PC (FCC-FKI)
Henry L. Ehrlich
P.O. Box 50784
Dallas, TX 75201

Date Mailed: 10/08/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Brennan S. Domec, Lafayette, LA;
Pradeep Kumar Mallenahalli, Broussard, LA;
John Fletcher Wheeler, Aberdeen, UNITED KINGDOM;

**Assignment For Published Patent Application**

Frank's International, Inc., Houston, TX

**Power of Attorney:** The patent practitioners associated with Customer Number 75548

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/990,762 11/28/2007
and claims benefit of 61/076,488 06/27/2008
and is a CIP of 11/761,185 06/11/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/08/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/324,313**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

METHODS AND APPARATUS FOR FORMING TUBULAR STRINGS

**Preliminary Class**

228

## 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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**KAMILO FEHER**
**44685 COUNTRY CLUB DRIVE**
**EL MACERO, CA 95618**

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APR 17 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kamilo Feher | : | |
| Application No. 12/324,378 | : | ON PETITION |
| Filing: November 26, 2008 | : | |
| Attorney Docket No. WIRED05 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 (PTO/SB/130 form) by the applicant that he is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at 571-272-6059. 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 2618 for action on the merits commensurate with this decision.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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PHARMACOFORE, INC.
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

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APR 22 2010

OFFICE OF PETITIONS

Applicant: Thomas E. Jenkins
Appl. No.: 12/324,383
Filing Date: November 26, 2008
Title: PRO-DRUGS FOR CONTROLLED RELEASE OF BIOLOGICALLY ACTIVE COMPOUNDS
Attorney Docket: PFOR-0307
Pub. No.: 2009/0137618 A1
Pub. Date: May 28, 2009

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(b), received on July 24, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in optical character recognition on multiple pages within the specification.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors within the specification, may be Office error, but the errors are not material error in accordance with 37 CFR 1.221(b). The errors are due to the quality and size of the text, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52(a)(1)(v), which states that all papers that are to become a permanent part of Office records must be presented "in a form having sufficient clarity and contrast between the paper and the writing to permit...electronic capture by use of digital imaging and optical character recognition". As set forth at MPEP 1121, "applications with poor

[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).

quality text, which may acceptable for scanning and examination purposes, may lead to errors in the patent application publication. Correction of these errors and inclusion of any desired amendments into the text of the originally-filed specification and drawings will only occur if applicant files a request for republication under 37 CFR (a).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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**1000 EAGLE GATE TOWER**
**60 EAST SOUTH TEMPLE**
**SALT LAKE CITY UT 84111**

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OCT 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Douglas M. Durbano | : | DECISION ON PETITION |
| Application No. 12/324,419 | : | TO WITHDRAW |
| Filed: November 26, 2008 | : | FROM RECORD |
| Attorney Docket No. 17523.1.1 | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 24, 2009.

The request is **DISMISSED**.

A review of the file record indicates that Jens C. Jenkins 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.

Further, 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 Jens C. Jenkins on behalf of all attorneys of record associated with Customer Number 22913. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

A review of current USPTO records does not list any recorded assignment concerning the above-identified application. Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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**SALT LAKE CITY UT 84111**

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**JAN 19 2010**

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|---|---|---|
| In re Application of | : | |
| Douglas M. Durbano | : | DECISION ON PETITION |
| Application No. 12/324,419 | : | TO WITHDRAW |
| Filed: November 26, 2008 | : | FROM RECORD |
| Attorney Docket No. 17523.1.1 | : | |

This is a decision on the renewed request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 4, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. Federal Deposit Insurance Corporation, C/o Scott T. Fleming is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71. Further, the review of current USPTO records does not list any recorded assignment concerning the above-identified application. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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MAY 10 2010

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| In re Application of | : | |
| Douglas M. Durbano | : | DECISION ON PETITION |
| Application No. 12/324,419 | : | TO WITHDRAW |
| Filed: November 26, 2008 | : | FROM RECORD |
| Attorney Docket No. 17523.1.1 | : | |

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 15, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Jens C. Jenkins on behalf of all attorneys of record who are associated with Customer No. 22913.

All attorneys/agents associated with Customer Number 22913 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, there is no outstanding Office action mailed that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Douglas M. Durbano
476 W. Heritage Park Blvd., Suite 200
Layton, UT 84041

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SEP 29 2009

OFFICE OF PETITIONS

BOYLE FREDRICKSON SC
840 NORTH PLANKINTON AVENUE
MILWAUKEE WI 53203

| | | |
|---|---|---|
| In re Application of | : | |
| Tomasz Robert Okon | : | |
| Application No. 12/324,500 | : | ON PETITION |
| Filed: November 26, 2008 | : | |
| Attorney Docket No. 1509.029 | : | |

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 file a reply to the Notice to File Missing Parts, mailed December 15, 2008. This Notice set an extendable period for reply of two (2) months for applicant to submit replacement drawings, an oath or declaration, and the surcharge for its late filing. No reply having been received, the application became abandoned on February 16, 2009. The Office mailed a Notice of Abandonment on August 26, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a declaration, surcharge, and 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

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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APR 28 2010

OFFICE OF PETITIONS

In re Application of :
Takeshi Ikegami :
Application No. 12/324,594 : ON PETITION
Filed: November 26, 2008 :
Attorney Docket No. 578652000301

This is a decision on the petition, filed April 27, 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 March 12, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3644 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

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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 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/324,680 | 11/26/2008 | Carlos Teran | A10.00370000 | 1068 |

68446 7590 06/08/2009
FIALA & WEAVER, P.L.L.C.
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2173 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/08/2009 | 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.

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Fiala & Weaver, P.L.L.C.
C/O CPA GLOBAL
P.O. BOX 52050
Minneapolis MN 55402

In re Application of:
Carlos Teran et al.
Serial No.: 12/324,680
Filed: November 26, 2008
Docket: A10.00370000
Title: NAVIGATION ASSISTANCE FOR SEARCH ENGINES

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::
::
:: DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 26, 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 filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1–I.4, II.5.1-II.5.3, II.6.1, II.6.2, and II.6.4-II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.6.3 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, the Petitioner should 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).

37 CFR 1.111(b) states a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

37 CFR 1.111(c) states 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.

On page 12, Petitioner states "All of the references identified above fail to at least teach or suggest "generating a search assistance list that includes the selected web address [selected based on the predicted navigational query], and enabling the search assistance list to be displayed to the user in response to the received at least a partial search query" required in independent claim 1." However, in section 9(B), Petitioner explicitly cites Kamvar et al. to describe the generating a search assistance list that includes the selected web address [selected based on the predicted navigational query] and enabling the search assistance list to be displayed to the user in response to the received at least a partial search query. Therefore, Petitioner's "Detail Explanation of Patentability" is not clear as to whether the cited references describe the claimed invention or not.

On page 13, Petitioner states "All of the references identified above fail to at least teach or suggest a "suggested search manager [that] is configured to generate a search assistance list that includes the selected web address [selected based on the predicted navigational query], and to enable the search assistance list to be displayed to the user in response to the received at least a partial search query" required in independent claim 11." However, in section 9(B), Petitioner explicitly cites Kamvar et al. to describe the suggested search manager [that] is configured to generate a search assistance list that includes the selected web address [selected based on the predicted navigational query], and to enable the search assistance list to be displayed to the user in response to the received at least a partial search query." Therefore, Petitioner's "Detail Explanation of Patentability" is not clear as to whether the cited references describe the claimed invention or not.

On pages 12-13, Petitioner's "Detail Explanation of Patentability" does not discuss of how **each** of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c). For example, On pages 12-14, Petitioner discusses claims 1-3, 6, 10-12, 14, 16,

19, and 20, however, Petitioner has not provided any statements as to the patentability of dependent claims 4, 5, 7-9, 13, 15, 17, and 18 . Petitioner should clearly point out, for each of dependent claims 4, 5, 7-9, 13, 15, 17, and 18, whether the claim recites any features that would render it patentable if the corresponding base claim were found to be unpatentable. For any claim believed to be separately patentable, Petitioner should further point out the patentable novelty with the particularity required by 37 CFR 1.111(b) and (c). If any dependent claim is not believed to be separately patentable, petitioner should clearly indicate that the dependent claim contains no features that would make it patentable should the base claim is found to be unpatentable. Correction is required.

Thus, the petition does not meet all of the conditions set forth in MPEP § 708.02(a).

DECISION

For the above-stated reasons, the petition is **dismissed**.

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.

Kakali Chaki

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/324,680 | 11/26/2008 | Carlos Teran | A10.00370000 | 1068 |

68446 7590 07/24/2009
FIALA & WEAVER, P.L.L.C.
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

| EXAMINER |
|---|
| MOFIZ, APU M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2161 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/24/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

7/17/09

In re Application of: Carlos Teran, et al.
Serial No.: 12/324,680
Filed: November 26, 2008
Docket: A10.00370000
Title: NAVIGATION ASSISTANCE FOR SEARCH ENGINES

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 July 6, 2009 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of

Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719.

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/324,721 | 11/26/2008 | Jason Matthew Fruh | P2008-09-0023(290110.425) | 1148 |

70336 7590 06/24/2010
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE
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SEATTLE, WA 98104

| EXAMINER |
|---|
| OWENS, DOUGLAS W |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2821 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/24/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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**SEED INTELLECTUAL PROPERTY**
**LAW GROUP PLLC**
**701 FIFTH AVENUE**
**SUITE 5400**
**SEATTLE WA 98104**

**In re Application of**
**FRUH et al.**
**Application No.: 12/324,721**
**Filed: 26 November 2008**
**Attorney Docket No.: P2008-09-0023(290110.425)**
**For: ADJUSTMENT MECHANISM FOR DISH ANTENNA SYSTEM**

**: DECISION ON REQUEST TO**
**: PARTICIPATE IN THE PCT PATENT**
**: PROSECUTION HIGHWAY PILOT**
**: PROGRAM AND PETITION**
**: TO MAKE SPECIAL UNDER**
**: 37 CFR 1.102(d)**

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(d), filed 10 June 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

**Discussion**

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof, a statement that the English translation is accurate, if the claims are not in the English language and identify and explain why the claim(s) is/are not subject to any observation described in Box VIII;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate if the latest international work product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications; and

Conditions (1), (3-6), and (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (2) and (4).

Regarding the requirement of condition (2), the claims of the PCT application were not free of observations in Box VIII in the latest work product in the international stage and applicant failed to identify and explain why the claims are not subject to the observation in Box VIII as required.

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) using the document description: Petition to make special under PCT – Patent Pros Hwy. 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

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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

**MAILED**

MAY 10 2010

**OFFICE OF PETITIONS**

In re Application of :
James P. Schneider :
Application No. 12/324,784 :
Filed: November 26, 2008 :
Attorney Docket No. 5220P511

ON PETITION

This is a decision on the petition, filed May 6, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid on April 13, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2819 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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FEB 03 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KEITH L. JENKINS
2222 NORTH MCQUEEN ROAD #2069
CHANDLER AZ 85225

In re Application of:
IVEY, LOYD, et al.
Serial No.: 12/324,832
Filed: November 26, 2008
Attorney Docket number: **MI09026U**
Title: **OMNI-DIRECTIONAL SPEAKER LAMP**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 26, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II, items 5.2, and 5.3.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search the following class/subclasses:
381/388.

If any request for reconsideration is filed, an updated preexamination search must be conducted as per item 5.1 above, and the Preexamination Search Document must be amended to indicate such; a new Information Disclosure Statement should be filed to cite any newly found prior art, and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of any newly found and cited prior art in accordance with all of items 6 through 6.6 above.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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KEITH L. JENKINS
2222 NORTH MCQUEEN ROAD #2069
CHANDLER AZ 85225

In re Application of:
IVEY, LOYD, et al.
Serial No.: 12/324,832
Filed: November 26, 2008

Title: **OMNI-DIRECTIONAL SPEAKER LAMP**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

The petition on request for reconsideration to make the application special filed February 26, 2009 is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:

If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not

file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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**David Klein**
**DEKEL PATENT LTD.**
**Beit HaRof'im**
**18 Menuha VeNahala Street, Room 27**
**Rehovot IL ISRAEL**

| | | |
|---|---|---|
| In re Application of | : | |
| Moshe Ein-Gal | : | |
| Application No. 12/324,867 | : | DECISION ON PETITION |
| Filed: November 27, 2008 | : | |
| Attorney Docket No. 1865EIN-US | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 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 January 22, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 22, 2009. Accordingly, the date of abandonment of this application is January 23, 2010. A Notice of Abandonment was mailed on February 4, 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 issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

# UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Theodore R. Anderson

Application No. 12324876

Filed: November 27,2008

Attorney Docket No. 07090-UPA

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 17-AUG-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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

APR 23 2010

OFFICE OF PETITIONS

**VINCENT PATENT AGENCY**
**11-300 EARL GREY DRIVE, SUITE 202**
**KANATA ON K2T 1C1 CA CANADA**

| | | |
|---|---|---|
| In re Application of | : | |
| Maguid et al. | : | DECISION ON PETITION |
| Application No. 12/324,982 | : | TO WITHDRAW |
| Filed: November 28, 2008 | : | FROM RECORD |
| Attorney Docket No. 10990 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on February 28, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**VINCENT PATENT AGENCY**
**11-300 EARL GREY DRIVE, SUITE 202**
**KANATA ON K2T 1C1 CA CANADA**

MAILED

JUN 14 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Maguid et al. | : | DECISION ON PETITION |
| Application No. 12/324,982 | : | TO WITHDRAW |
| Filed: November 28, 2008 | : | FROM RECORD |
| Attorney Docket No. 10990 | : | |

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 6, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Robert A Vincent, on behalf of all practitioners of record associated with Customer Number 58166.

Customer Number 58166 has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ABDEL HAZEM MAGUID
322 HADLEY COURT
OTTAWA K2H 8M6 CA

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 |
|---|---|---|---|
| 12/324,982 | 11/28/2008 | Hazem Abdel Maguid | 10990 |

**CONFIRMATION NO. 1647**

**POWER OF ATTORNEY NOTICE**

58166
VINCENT PATENT AGENCY
11-300 EARL GREY DRIVE, SUITE 202
KANATA, ON K2T 1C1
CANADA

*OC000000042064025*

Date Mailed: 06/11/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/06/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 12/324,989 | 11/28/2008 | Masayasu USHIDA | MNL-2018-2205 | 1656 |

7590 02/26/2010
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3748 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/26/2010 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/01/2010 NFARKER
11/20/2008 INTEFSW 00000937 12324989
02 FC:1111 -540.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID KIEWIT
5901 THIRD ST SOUTH
ST PETERSBURG FL 33705

COPY MAILED

JAN 05 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Murray F. Feller | : | |
| Application No. 12/325,016 | : | DECISION ON PETITION |
| Filed: November 28, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. FMB | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 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 applicant's representative that he is in possession of evidence of applicant's age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred to the Office of Patent Application Processing to await a reply to the Notice to File Corrected Application Papers (Notice) mailed December 15, 2008. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

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AUG 19 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Mark Colgin, Irving Boime,<br>Janet Roser and Kory Niswender<br>Application No. 12/325,084<br>Filed: November 28, 2008<br>Attorney Docket No. 56-07<br>Title: ACTIVITY OF RECOMBINANT<br>EQUINE FOLLICLE STIMULATING<br>HORMONE | DECISION ON PETITION<br>PURSUANT TO<br>37 C.F.R. § 1.47(A) |

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on July 15, 2009.

This petition is **DISMISSED**.

On November 28, 2008, the application was filed, identifying Mark Colgin, Irving Boime, Janet Roser and Kory Niswender as joint inventors. No oath or declaration was included on filing. On December 22, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

On July 15, 2009, Petitioner submitted this petition in response to the notice, along with, *inter alia*, a declaration that has been executed by each of the inventors save Mr. Niswender and the fee that is associated with the late submission of an oath or declaration, the petition fee, the last known address of the non-signing inventor along with an assertion that he has refused to execute the declaration, a five-month extension of time so as to make timely the response, and a declaration of facts.

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);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

Petitioner has met requirements (1) - (3) and (5) of 37 C.F.R. § 1.47(a).

Regarding the fourth requirement of 37 C.F.R. § 1.47(a), it does not appear that a complete copy of the application was sent to the last known address of the non-signing inventor: it appears that only the declaration and the specification were sent.[1, 2] Where a refusal of an inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to send a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] **Since the record does not support a finding that either the claims or the drawings were sent to the non-signing joint inventor, the fourth requirement has not been satisfied.**

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1 See petition, page 2, and Gephart declaration of facts, paragraph 4.
2 It is noted that a copy of these documents were also electronically sent via Email. See petition, page 2, and Gephart declaration of facts, paragraph 3. The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems. Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/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 e-mailed document was in a form that can be read and comprehended.
3 See MPEP § 409.03(d).

Since it has not been shown that a complete copy of the application was sent to the non-singing inventor, one cannot refuse to sign something that one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under Rule 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed.[4]

**Before filing any renewed petition, Petitioner should mail a complete copy of the application to the last known address of the non-signing inventor, and provide a reasonable period of time for response.** Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

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.

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,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

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.

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4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[9]

Paul Shanoski
Senior Attorney
Office of Petitions

9 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

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

COPY MAILED
JAN 15 2010

| | |
|---|---|
| In re Application of<br>Mark Colgin, Irving Boime,<br>Janet Roser and Kory Niswender<br>Application No. 12/325,084<br>Filed: November 28, 2008<br>Attorney Docket No. 56-07<br>Title: ACTIVITY OF RECOMBINANT<br>EQUINE FOLLICLE STIMULATING<br>HORMONE | DECISION ON RENEWED<br>PETITION PURSUANT TO<br>37 C.F.R. § 1.47(A) |

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on December 18, 2009.

This renewed petition is **GRANTED**.

On November 28, 2008, the application was filed, identifying Mark Colgin, Irving Boime, Janet Roser and Kory Niswender as joint inventors. No oath or declaration was included on filing. On December 22, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

On July 15, 2009, Petitioner submitted this petition in response to the notice, along with, *inter alia*, a declaration that has been executed by each of the inventors save Mr. Niswender and the fee that is associated with the late submission of an oath or declaration, the petition fee, the last known address of the non-signing inventor along with an assertion that he has refused to execute the declaration, a five-month extension of time so as to make timely the response, and a declaration of facts.

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);
(3) a statement of the last known address of the 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 the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on July 15, 2009, and was dismissed via the mailing of a decision on August 19, 2009, which set a two-month period for response and indicated that requirements (1) - (3) and (5) of 37 C.F.R. § 1.47(a) had been satisfied.

With this renewed petition, Petitioner has included a two-month extension of time so as to make timely this response. Petitioner has further established that a complete copy of the application was sent to the non-signing inventor on September 24, 2009, and that he has failed to respond to the communication.[1] Petitioner has also indicated that on or about September 22, 2009, he learned that the inventor "could no longer be contacted" at the address which appears on the declaration[2] (it is noted that the mailing of September 24, 2009 was sent to the updated last-known address), and has included a declaration which contains the correct address for this individual. As such, the fourth requirement of Rule 1.47(b) has been satisfied.

Consequently, each of the requirements of 37 C.F.R. § 1.47(a) has been met.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. § 1.47(a). This application is hereby accorded Rule § 1.47(a) status.

As provided in Rule 1.47, this Office will forward notice of this

1 Renewed petition, page 3.
2 Id. at 2.

application's filing to the non-signing inventor at the address that appears on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing (OPAP) will be notified of this decision, 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.[3]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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Kory Niswender
1713 Teller Bell Lane
Granbury, TX 76049

COPY MAILED
JAN 15 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Mark Colgin, Irving Boime, | : | |
| Janet Roser and Kory | : | |
| Niswender | : | |
| Application No. 12/325,084 | : | |
| Filed: November 28, 2008 | : | LETTER |
| Attorney Docket No. 56-07 | : | |
| Title: ACTIVITY OF | : | |
| RECOMBINANT EQUINE FOLLICLE | : | |
| STIMULATING HORMONE | : | |

Dear Mr. Niswender:

You are named 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 C.F.R. § 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 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. 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).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAIL

FEB 03 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DOSTER GREENE , LLC
#215
2 WISCONSIN CIRCLE SUITE 700
CHEVY CHASE MD 20815

In re Application of:
BUCHMANN, PETER, et al.
Serial No.: 12/325,102
Filed: November 28, 2008
Attorney Docket number: **CH920070086US2**
Title: **PSEUDO-RANDOM BIT SEQUENCE (PRBS) SYNCHRONIZATION FOR INTERCONNECTS WITH DUAL-TAP SCRAMBLING DEVICES**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 28, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II, item 6.3.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 6.3 above, the Accelerated Examination Support Document is deficient because the section titled "Detailed Explanation of Patentability" fails to provide a "detailed explanation of how the claim is patentable over *each* of the references cited with particularity required by 37 CFR 1.111(b) and (c)". In section 9(B) of the Accelerated Examination Support Document, petitioner identifies claim limitations that are not taught by each reference individually without clearly identifying which limitations are specifically taught by each reference. In Section 9(C), petitioner identifies claim limitations that all of the references fail to teach or suggest. However, the limitations identified in item 9(B) and 9(C) noted above are in some instances different from reference to reference, thus leading to confusion as to how the claim is patentable over *each* of the references cited with particularity required by 37 CFR 1.111(b) and (c). Furthermore, it fails to provide how the claim is patentable over the *combination* of the cited references. The petition merely repeats the claimed limitations and explains that the claim is patentably distinguished over each or combination of references cited. Clarification is required.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

APR 2 4 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DOSTER GREENE , LLC
#215
2 WISCONSIN CIRCLE SUITE 700
CHEVY CHASE MD 20815

In re Application of:
BUCHMANN, PETER, et al.
Serial No.: 12/325,102
Filed: November 28, 2008

Title: **PSEUDO-RANDOM BIT SEQUENCE (PRBS) SYNCHRONIZATION FOR INTERCONNECTS WITH DUAL-TAP SCRAMBLING DEVICES**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

The petition on request for reconsideration to make the application special filed March 3, 2009 is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:

To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAWRENCE R. OREMLAND, P.C.
5055 E. BROADWAY BLVD.
SUITE C-214
TUCSON AZ 85711

MAILED

MAR 24 2010

OFFICE OF PETITIONS

In re Application of
Sommovigo et al.
Application No. 12/325,111
Filed: November 28, 2008
Attorney Docket No. Electrical Connector Structure

DECISION ON PETITION

This is a decision on the petition, filed January 15, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 26, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 7, 2010.

Petitioners contend a reply to the non-final Office action was submitted on January 4, 2010. Petitioners state that an amendment, request for a three-month extension of time, credit card payment in the amount of $555.00, certificate of mailing and post card were filed on January 4, 2010 with a certificate of mailing dated December 28, 2009. A postcard receipt with an Office stamp of January 4, 2010 also accompanies the petition.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

> 1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
> (C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date

indicated.

The petition satisfies the above requirements of 37 CFR 1.8. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 26, 2009 is hereby withdrawn and the application restored to pending status.

The Office has located the original reply received on January 4, 2010

This application is being referred to Technology Center AU 2839 for appropriate action in the normal course of business on the reply received on January 4, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/325,152 | 11/29/2008 | Yu Yung Choi | 1104-2 | 1957 |

42129 7590 06/15/2009
EDWARD ETKIN, ESQ.
Law Office of Edward Etkin, PC
228 West End Avenue, Suite A
Brooklyn, NY 11235

| EXAMINER |
|---|
| MOONEYHAM, JANICE A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3689 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/15/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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EDWARD ETKIN, ESQ.
Law Office of Edward Etkin, PC
228 West End Avenue, Suite A
Brooklyn NY 11235

Applicant: Choi
Appl. No.: 12/325,152
Filing Date: November 29, 2008
Title: SYSTEM AND METHOD FOR STREAMLINED REGISTRATION OF ELECTRONIC PRODUCTS OVER A COMMUNICATION NETWORK AND FOR VERIFICATION AND MANAGEMENT OF INFORMATION RELATED THERETO
Attorney Docket No.: 1104-2
Pub. No.: US 2009/0144074 A1
Pub. Date: June 4, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 11, 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.

Gammy J. Koontz

Office of Data Management
United States Patent & Trademark Office

Refund Ref:
06/16/2009 KKING1 0000167559
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CHECK Refund Total: $300.00

Adjustment date: 06/16/2009 KKING1
06/12/2009 INTEFSW 00005071 12325152
01 FC:1504 -300.00 OP

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P.O. Box 1450
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**SHYAM K. GUPTA**
**BIODERM RESEARCH**
**5221 E. WINDROSE DRIVE**
**SCOTTSDALE AZ 85254**

COPY MAILED

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Shyam K. Gupta | : | |
| Application No. 12/325,155 | : | DECISION ON PETITION |
| Filed: November 29, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. N/A | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 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 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 1615 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

**CARR & FERRELL LLP**
**2200 GENG ROAD**
**PALO ALTO, CA 94303**

| | | |
|---|---|---|
| In re Application of | : | |
| **GELF,** Alexander D. et al. | : | |
| Application No. 12/325,188 | : | DECISION ON PETITION |
| Filed: November 29, 2008 | : | TO WITHDRAW |
| Attorney Docket No. **TRNZ-001/04US 309733-2005** | : | 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 02, 2009.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to CARR & FERRELL LLP has been revoked by the assignee of the patent application on May 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **COOLEY GODWARD KRONISH LLP**
**ATTN: PATENT GROUP**
**SUITE 1100**
**777 - 6TH STREET, NW**
**WASHINGTON DC 20001**

UNITED STATES PATENT AND TRADEMARK OFFICE

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**RAYMOND J. WERNER**
**2056 NW ALOCLEK DRIVE, SUITE 314**
**HILLSBORO OR 97124**

**MAILED**

MAR 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Morgan T. Johnson | : | |
| Application No. 12/325,269 | : | ON PETITION |
| Filed: December 1, 2008 | : | |
| Attorney Docket No. Octavian.P007.D1 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 4, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant's attorney that he is 65 years of age, and a Declaration from applicant that he is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This 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
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

In re Application of
Thomas McLaughlin

Application No. 12325295

Filed:

Attorney Docket No.

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 01-DEC-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 inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN LLP
- FOX ENTERTAINMENT GROUP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

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OFFICE OF PETITIONS

In re Application of
Anand, et al.
Application No. 12/325,357
Filed: 1 December, 2008
Attorney Docket No. MYS1394US2

DECISION ON PETITION

This is a decision on the petition filed on 11 June, 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 TIMELY AND PROPERLY 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 C.F.R. §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, generally:* MPEP §409.03, and §409.03(a)—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 to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

*Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record reflects as follows:

The application was deposited on 1 December, 2008, without, *inter alia*, a fully executed oath/declaration

On 11 December, 2008, the Office mailed a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration.

On 11 June, 2009, Petitioner H.M. Bedingfield (Reg. No. 44,530) filed, *inter alia*, a request and fee for extension of time, a petition (with fee) pursuant to 37 C.F.R. §1.47, with an oath/declaration executed by co-inventor Mr. Anad for himself and on behalf of non-signing inventor Dan Kaminsky (Mr. Kaminsky), with a statement as to the current/valid/reasonably believed to be last known address for Mr. Kaminsky. What is clear from the attached documents (including but not limited to the transmittal letter of Sandy Yopp, Assistant to H.M. Bedingfield) is that only an oath/declaration (with assignment) was sent to the non-signing inventor and not a copy of the entire application (description, claims, abstract, drawings), as required. (It is noted that the Email transmissions were not affirmatively acknowledged as received and readable and the paper transmittal refers only to the oath/declaration, assignment.)

Petitioner must resolve these matters on any renewed petition and is reminded that a grantable petition under 37 C.F.R. §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 entire application (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 must satisfy the requirements pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.

Thus, Petitioner's failure to satisfy the regulatory requirements makes granting of the instant petition inappropriate.

*Petitioners always are 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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300
ATTN: Office of Petitions

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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HARTFORD CT 06103

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| In re Application of | : | |
| Anand, et al. | : | DECISION ON PETITION |
| Application No. 12/325,357 | : | |
| Filed: 1 December, 2008 | : | |
| Attorney Docket No. MYS1394US2 | : | |

This is a decision on the petition filed on 16 November, 2009, under 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) is **GRANTED**.

A grantable petition under 37 C.F.R. §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.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

## BACKGROUND

The record reflects as follows:

The application was deposited on 1 December, 2008, without, *inter alia*, a fully executed oath/declaration

On 11 December, 2008, the Office mailed a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration.

On 11 June, 2009, Petitioner H.M. Bedingfield (Reg. No. 44,530) filed, *inter alia*, a request and fee for extension of time, a petition (with fee) pursuant to 37 C.F.R. §1.47, with an oath/declaration executed by co-inventor Mr. Anad for himself and on behalf of non-signing inventor Dan Kaminsky (Mr. Kaminsky), with a statement as to the current/valid/reasonably believed to be last known address for Mr. Kaminsky. What is clear from the attached documents (including but not limited to the transmittal letter of Sandy Yopp, Assistant to H.M. Bedingfield) is that only an oath/declaration (with assignment) was sent to the non-signing inventor and not a copy of the entire application (description, claims, abstract, drawings), as required. (It was noted that the Email transmissions were not affirmatively acknowledged as received and readable and the paper transmittal referred expressly only to the oath/declaration, assignment.) The petition was dismissed on 14 September, 2009.

On 16 November, 2009, Petitioner reasserted the petition and affirmatively stated that the meaning of the previously submitted correspondence was that the entire application was sent to the non-signing inventor and asserted also that the address previously stated of record was the current address for that non-signing inventor with a failure to sign/join in the oath/declaration thereafter—thus demonstrating, *inter alia*, the non-signing inventor's constructive refusal to sign. Petitioner so seeks to evidence compliance with the requirements of a grantable petition under 37 C.F.R. §1.47(a): (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. (Thus, Petitioner sought to satisfy the requirements pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.)

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]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

## CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §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.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing 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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
**§1.2 Business to be transacted in writing.**
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt

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DAN KAMINSKY
2415 WESTERN AVENUE/#101
SEATTLE, WA 98121

COPY MAILED
MAR 09 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Anand, et al. | : | COMMUNICATION |
| Application No. 12/325,357 | : | |
| Filed: 1 December, 2008 | : | |
| Attorney Docket No. MYS1394US2 | : | |

Dear Dan Kaminsky:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47 (Code of Federal Regulations), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/ ).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
CANTOR COLBURN LLP
- FOX ENTERTAINMENT GROUP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

[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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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/325,379 | 12/01/2008 | Ryuichi Shimoda | 335529US8 | 1386 |

7590 08/26/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| YE, LIN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 08/26/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
08/27/2009 0030073747

Credit Card Refund Total: $760.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 08/27/2009 NFARMER
12/01/2008 INTEFSW 00003667 12325379
02 FC:1111 -540.00 OP
04 FC:1201 -220.00 OP



FORM PET651G (Rev. 08/07)

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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. |
|---|---|---|---|---|
| 12/325,385 | 12/01/2008 | Shigeru Yoshiyama | MNL-2018-2186 | 1401 |

7590 02/04/2010
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER |
|---|
| MULLINS, BURTON S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2834 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/04/2010 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref: [illegible]

Credit Card Refund Total: [illegible]

No Copies [illegible]

Adjustment date: 02/18/2010 NFARMER
12/01/2008 INTERSU 00003744 12325385
02 FC:1111 -540.00 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. |
|---|---|---|---|---|
| 12/325,399 | 12/01/2008 | Makoto Mashida | MNL-2018-2187 | 1429 |

7590 07/22/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 3747 | |

| 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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/22/2009 0030072515

Credit Card Refund Total: $540.00

Am Exp..: XXXXXXXXXXX2021

Adjustment date: 07/22/2009 NEORMER
12/01/2008 INTEFSW 00003968 12325399
02 FC:1111 -540.00 OP



FORM PET651G (Rev. 08/07)

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APR 2 8 2009

OFFICE OF PETITIONS

QUINN LAW GROUP, PLLC
39555 ORCHARD HILL PLACE
SUITE # 520
NOVI, MI 48375

In re Application of :
Schwaegler :
Application No. 12/325,407 :
Filed: December 1, 2008 :
Attorney Docket No. MSC0136PUS :
For: Bimetal Laminate Structure and :
Method of Making the Same :

Decision Refusing to Accord
Status Under 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47 filed January 29, 2009. Although the petition is labeled as a petition under 37 CFR 1.47(a), petitioner indicates zero inventors have signed an oath or declaration. Therefore, the petition is properly considered under 37 CFR 1.47(b).

The petition is **dismissed**.

The petition states the petition is accompanied by a declaration under 37 CFR 1.63 signed by MSC. However, the Office file fails to include such a declaration and a review of the copy of the Electronic Acknowledgment Receipt fails to indicate the declaration was filed with the petition.

35 USC 111(a)(4) sets forth that, as here, when an applicant receives notice to file an oath or declaration, but does not supply the missing oath or declaration, the application becomes abandoned by operation of the law. Accordingly, the mere filing of the petition under 37 CFR 1.47, in reply to the Notice, was not a proper reply to the Notice. Rather, in the instance where all of the named inventors will not sign a declaration, a proper reply to the Notice consists of **both** a petition under 37 CFR 1.47, and an oath or declaration.

Please note the application will become **abandoned** unless a declaration, signed or unsigned, **and** a request for reconsideration of the instant decision are filed with an appropriate extension of time in response to the Notice to File Missing Parts mailed December 12, 2008. A declaration and request for an extension can be filed as late as July 12, 2009, if accompanied by payment for a five-month extension of time.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),

(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

The petition lacks item (2) set forth above. Therefore, the petition cannot be granted.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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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QUINN LAW GROUP, PLLC
39555 ORCHARD HILL PLACE
SUITE # 520
NOVI, MI 48375

**MAILED**

MAR 25 2010

**OFFICE OF PETITIONS**

In re Application of :
Schwaegler :
Application No. 12/325,407 :
Filed: December 1, 2008 :
Attorney Docket No. MSC0136PUS :
For: Bimetal Laminate Structure and :
Method of Making the Same :

Decision Refusing to Accord
Status Under 37 CFR 1.47(b)

This is in response to the request for reconsideration under 37 C.F.R. § 1.47(b) filed May 12, 2009. The Office regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A petition under 37 C.F.R. § 1.47(b) was filed January 29, 2009.

The petition stated the petition was accompanied by a declaration under 37 C.F.R. § 1.63. However, Office records failed to indicate a declaration was filed with the petition. A decision dismissing the petition was mailed April 28, 2009. The decision could not address the sufficiency of the declaration because the declaration had not been received.

The instant petition was filed May 12, 2009, and is accompanied by a declaration under 37 C.F.R. § 1.63.

The first paragraph states,

> Material Sciences Corp. (hereinafter "MSC") ... makes the following declaration ... as an applicant pursuant to 37 C.F.R. § 1.47(b). I, the undersigned, have been authorized by MSC ... to submit this declaration on behalf of MSC.

Unfortunately, the declaration does not include the signature of the "undersigned" or any other party.

Although the Office can accept a declaration signed by a party on behalf of an inventor, the Office cannot accept a declaration lacking any signature.

MPEP 409.03(b) states, with emphasis added,

> [A]n application deposited pursuant to 37 CFR 1.47(b) must meet the following requirements:
>
> (A) The 37 CFR 1.47(b) applicant *must* make the oath required by 37 CFR 1.63 and 1.64 or 1.175.... A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, *to sign* the application oath or declaration on its behalf. Where an oath or declaration is *signed* by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324....

A declaration signed by a proper party should be submitted with a request for reconsideration.

The Office notes the prior decision stated the application would go abandoned absent submission of a declaration, signed *or unsigned*, and a request for reconsideration within the extendable time period for reply set by the Notice to File Missing Parts. Even though the declaration filed with the instant petition is not signed, the application is not abandoned. The declaration is sufficient to avoid abandonment of the application since the declaration was filed with a request for reconsideration under 37 C.F.R. § 1.47(b).

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

If petitioner does not receive a decision in response to any future request for reconsideration within two months of filing the request, petitioner should feel free to call the undersigned in order to check the status of the request.

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

Paper No.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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AUG 24 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Leila Moulay, Zachary | : | |
| Sniderman, Alvin Ibarra, and | : | |
| Vicente Marti-Bartual | : | |
| Application No. 12/325,410 | : | DECISION ON PETITION |
| Filed: December 1, 2008 | : | PURSUANT TO |
| Attorney Docket No. Q111259 | : | 37 C.F.R. § 1.47(A) |
| Title: PROCESS FOR PREPARING A | : | |
| HIGHLY-SOLUBLE COCOA EXTRACT | | |

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on July 15, 2009.

This petition is **DISMISSED**.

On December 1, 2008, the application was filed, identifying Leila Moulay, Zachary Sniderman, Alvin Ibarra, and Vicente Marti-Bartual as joint inventors. No oath or declaration was included on filing. On December 15, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

On July 15, 2009, Petitioner submitted this petition in response to the notice, along with, *inter alia*, a declaration that has been executed by the first two named inventors, a portion of the petition fee,[1] the fee that is associated with the late submission of an oath or declaration, a five-month extension of time so as to make timely the response, copies of e-mail correspondences with the two non-signing inventors, and partial translations of the same.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

1 The required fee is $200, and Petitioner has included $130. The remainder will be charged to Petitioner's Deposit Account in due course, as authorized on the second page of this petition.

(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);
(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) - (2) of 37 C.F.R. § 1.47(a).

Regarding the third requirement of Rule § 1.47(a), Petitioner has failed to include a statement of the last known address of each non-signing inventor.[2] Petitioner has included the last known e-mail addresses of the two non-signing joint inventors,[3] however it is noted that MPEP § 409.03(e) sets forth, *in pertinent part*:

> the last known address of the nonsigning inventor…should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

**On renewed petition, Petitioner should include the last known residential (*i.e.*, physical) address for each non-signing inventor.**

Regarding the fourth requirement of 37 C.F.R. § 1.47(a), it does not appear that a complete copy of the application was sent to the non-signing inventors: Petitioner has indicated that "relevant materials … including the Declaration and Power of Attorney" were provided to Alvin IBARRA and Vincente MARTI-BARTUAL's last known addresses requesting they execute the same."

First, the meaning of the phrase "relevant materials" is unclear.

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2 See MPEP § 409.03(e).
3 Petition, page 1.

Second, the electronic record has been reviewed and evidentiary documentation which would support a finding that a complete copy of application number 12/325,410 was sent to the last known residential address of each non-signing inventor has not been located.

Petitioner has asserted that both non-signing inventors have refused to execute the declaration that is associated with this application.[4] Where a refusal of the inventors to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration[5]. As no mention has been made of any presentation of the application to the non-signing joint inventors, the fourth requirement has not been met.

It follows that since it has not been shown that a complete copy of the application was sent to the inventors, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventors be presented with the application papers before a petition under Rule §1.47 is granted since such a procedure ensures that the inventors are apprised of the application to which the oath or declaration is directed.[6]

Third, the transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from the non-signing inventors that they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis <u>to presume</u> that an e-mailed document was in a form that can be read <u>and</u> comprehended.

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4 Petition, page 1.
5 <u>See</u> MPEP § 409.03(d).
6 <u>In re Gray</u>, 115 USPQ 80 (Comm'r Pat. 1956).

It is noted in passing that the electronic record contains a translation of an e-mail dated August 17, 2007, where Mr. Ibarra requested that all communications be sent to his e-mail address. However this request was directed towards a prior-filed PCT application.

**Before filing any renewed petition, Petitioner should mail a complete copy of the application to the last known residential address of each non-signing inventor, and provide each with a reasonable period of time for response.** Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

Regarding the fifth requirement of Rule 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(c)(1). The declaration appears to contain the address of the purported assignee in the fields that are associated with the mailing addresses of the non-signing inventors, while the petition indicates that each non-joint inventor is no longer employed by the purported assignee.[7] As such, these addresses appear to be outdated, since it does not seem likely that each non-signing inventor "customarily receives mail"[8] at the address of his former employer. **On renewed petition, Petitioner should submit either a declaration or a Supplemental Application Data Sheet that contains the correct mailing addresses for these individuals.**

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.

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,[9] hand-delivery,[10] or facsimile.[11]

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7 See "Declaration on Alvin Ibarra," page 2 and "Declaration on Vincente Marti," page 1.
8 37 C.F.R. § 1.63(c) requires the inclusion of "[t]he 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."
9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
10 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
11 (571) 273-8300- please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[12]

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.[13]

Paul Shanoski
Senior Attorney
Office of Petitions

12 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
13 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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ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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MAR 03 2009

OFFICE OF PETITIONS

In re Application of
Kevin Grant Suddaby
Application No.: 12/325,469
Filed: December 1, 2008
Attorney Docket No: B243 1010.1
For: ALTERNATIVE CROSSLINKING TECHNOLOGY

DECISION REFUSING RULE 47(b) STATUS

This is a decision on the petition under 37 CFR 1.47(b) filed February 11, 2009.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on December 1, 2008, without a properly executed declaration. A Notice of Missing Parts of Non-Provisional Application Papers was mailed on December 12, 2008, requiring an executed declaration and payment of a surcharge. The instant petition was filed on February 11, 2009.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks items (1), (2), (4), and (6) as set forth above.

As to item 1, Section 409.03(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not, itself, suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor . . .
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

There is not indication that a complete copy of the application papers (specification, claims, drawings, oath and declaration) was presented to the inventor. Petitioner must demonstrate that an effort was made to present a complete copy of the application papers to the inventor before the inventor can be said to have refused to join the prosecution of the application. Any renewed petition must, therefore, establish that an attempt was made to present a complete copy of the application papers to the non-signing inventor.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer

> (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an executed oath or declaration for the subject application. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

Further as to item (2), a declaration signed by the assignee cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the *Manual of Patent Examining Procedure* cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application.

It is further noted that the declaration under 37 CFR 1.63 filed February 11, 2009, states that: "I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56." All declarations under 37 CFR 1.63 filed after June 1, 2008, must include the language expressly set forth in 37 CFR 1.63(b)(3), which states that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined by §1.56. See 37 CFR 1.63(b)(3). The renewed petition should be accompanied by a properly executed declaration that includes the express language required by 37 CFR 1.63(b)(3).

As to item (6) above, no statement complying with Section 409.03(g) of the *Manual of Patent Examining Procedure* was found in the instant petition. A statement must accompany any renewed petition filed that "a filing date is necessary to preserve the rights of the party or to prevent irreparable damage."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 0 3 2009

**OFFICE OF PETITIONS**

In re Application of :
Kevin Grant Suddaby :
Application No. 12/325,469 : DECISION REFUSING STATUS
Filed: December 1, 2008 : UNDER 37 CFR 1.47(b)
Attorney Docket No. B243 1010.1 :
**For:** ALTERNATIVE CROSSLINKING TECHNOLOGY

This is a decision on the renewed petition under 37 CFR 1.47(b), filed April 20, 2009.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on December 1, 2008, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on December 12, 2008, indicating that a proper declaration executed was required as well as a surcharge of $130.00 for the late filing of the same. The notice provided a shortened period for reply of two-months from its mailing date. A petition under 37 CFR 1.47(b) was first filed on February 11,2009, and dismissed by a decision mailed March 3, 2009. The instant petition was filed on April 20, 2009.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition has not satisfied item (2) above.

As to item (2), the declaration under 37 CFR 1.63 filed April 20, 2009, is not proper because it does not properly identify the sole inventor for this application Further to this point, Section 409.03(b) of the Manual of Patent Examining Procedure provides, in pertinent part, that:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney"s or agent"s authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm"r Pat. 1973). **Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).**

The declaration filed April 20, 2009, does not state the full name, residence, post office address, and citizenship for inventor Suddaby. The renewed petition must be accompanied by a declaration under 37 CFR 1.63 that corrects this deficiency.

It is not necessary for petitioner to re-file all previously filed evidentiary documents. Petitioner need only file the documents necessary to remedy the deficiency noted above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of
Kevin Grant Suddaby
Application No.: 12/325,469
Filed: December 1, 2008
Attorney Docket No: B243 1010.1
For: ALTERNATIVE CROSSLINKING TECHNOLOGY

DECISION REFUSING
RULE 47(b) STATUS

This is a decision on the renewed petition under 37 CFR 1.47(b) filed June 15, 2009.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on December 1, 2008, without a properly executed declaration. A Notice of Missing Parts of Non-Provisional Application Papers was mailed on December 12, 2008, requiring an executed declaration and payment of a surcharge. The instant renewed petition was filed on June 15, 2009.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lack item (2) as set forth above.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

The declaration filed June 15, 2009, is not proper because it does not contain a signature of the 37 CFR 1.47(b) applicant or the assignee. **The declaration must contain a blank signature block for the non-signing inventor <u>and</u> a signature block for the 37 CFR 1.47(b) or assignee where the authorized representative has executed the declaration.** The renewed petition must be accompanied a properly executed declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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AUG 13 2009

OFFICE OF PETITIONS

In re Application of :
Kevin Grant Suddaby :
Application No. 12/325,469 : DECISION ACCORDING STATUS
Filed: December 1, 2008 : UNDER 37 CFR 1.47(b)
Attorney Docket No. B243 1010.1 :
**For:** ALTERNATIVE CROSSLINKING TECHNOLOGY

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 30, 2009.

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on December 1, 2008, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on December 12, 2008, indicating that a proper declaration executed was required as well as a surcharge of $130.00 for the late filing of the same. The notice provided a shortened period for reply of two-months from its mailing date. A petition under 37 CFR 1.47(b) was first filed on February 11, 2009, and dismissed by a decision mailed March 3, 2009. A petition under 37 CFR 1.47(b) was filed on April 20, 2009, and dismissed by a decision mailed June 3, 2009. A petition under 37 CR 1.47(a) was filed on June 15, 2009, and dismissed by a decision mailed July 2, 2009.

Petitioner has shown that inventor Suddaby has refused execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors 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 processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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NOV 13 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Arthur J. Valentz | : | |
| Application No. 12/325,519 | : | DECISION ON PETITION |
| Filed: December 1, 2008 | : | |
| Attorney Docket No. VTEC 0118 PUS | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed December 11, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $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 the examination or status of this application should be directed to the Office of Patent Application Papers at their hotline 571-272-4000.

This application is being referred to the Office of Patent Application papers for pre-examination processing of the reply received August 27, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIOTECH BEACH LAW GROUP , PC
625 BROADWAY
Suite 1210
SAN DIEGO CA 92101

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JUL 01 2009

OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 12/325,530
Filed: December 1, 2008
Attorney Docket No. ACE-101U1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 12, 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.

This application is being referred to Technology Center AU 1797 for examination in due course.

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

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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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 |
|---|---|---|---|---|---|---|
| 12/325,530 | 12/01/2008 | 1797 | 732 | ACE-101U1 | 13 | 1 |

**CONFIRMATION NO. 1693**

**CORRECTED FILING RECEIPT**

59538
BIOTECH BEACH LAW GROUP , PC
625 BROADWAY
Suite 1210
SAN DIEGO, CA 92101

*OC000000036624083*

Date Mailed: 06/24/2009

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)**

Xiaobo Wang, San Diego, CA;
Xiao Xu, San Diego, CA;

**Assignment For Published Patent Application**

ACEA BIOSCIENCES, INC., San Diego, CA

**Power of Attorney:** The patent practitioners associated with Customer Number 59538

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/705,447 11/10/2003 PAT 7,470,533
which claims benefit of 60/435,400 12/20/2002
and claims benefit of 60/469,572 05/09/2003

**Foreign Applications**

UNITED STATES OF AMERICA PCT/US03/22537 07/18/2003
UNITED STATES OF AMERICA PCT/US03/22557 07/18/2003

**If Required, Foreign Filing License Granted:** 12/23/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/325,530**

**Projected Publication Date:** 08/20/2009

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

Impedance Based Devices and Methods for Use in Assays

**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).

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**OFFICE OF PETITIONS**

In re Application of :
Wang et al. :
Application No. 12/325,530 : ON PETITION
Filed: December 1, 2008 :
Attorney Docket No. ACE-101U1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Raymond Wagenknecht
625 Broadway, Ste. 1210
San Diego, CA 92101

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/27/2010

| | | |
|---|---|---|
| **Applicant** | : Martin Spahn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7635221 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 12/325,663 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/01/2008 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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AUG 17 2009

OFFICE OF PETITIONS

**DUNLAP CODDING, P.C.**
**PO BOX 16370**
**OKLAHOMA CITY OK 73113**

| | | |
|---|---|---|
| In re Application of | : | |
| Robert Bosley | : | |
| Application No. 12/325,738 | : | ON PETITION |
| Filed: December 1, 2008 | : | |
| Attorney Docket No. 3934.003 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 December 11, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 12, 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 $65 surcharge; (2) the petition fee of $810; 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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application

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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/325,755 | 12/01/2008 | Alan Roberts | 265823 | 2138 |

23460 7590 01/16/2009
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1618 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/16/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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JAN 1 6 2008

23460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSONAVENUE
CHICAGO, IL 60601-6731

| | |
|---|---|
| In re Application of | : |
| Roberts, Alan | : DECISION ON PETITION TO MAKE |
| Serial No.: 12/325,755 | : SPECIAL FOR NEW APPLICATION |
| Filed: December 1, 2008 | : UNDER 37 C.F.R. § 1.102 & M.P.E.P. |
| Attorney Docket No.: 265823 | : § 708.02 |

This is a decision on the petition filed on December 1, 2008, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in 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, QAS TC 1600, at 571-272-0731

Dave Nguyen
Quality Assurance Specialist
Technology Center 1600

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COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

**MAILED**

JUN 03 2010

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Anversa, et al. | : |
| Application No. 12/325,776 | : DECISION ON PETITION |
| Filed: December 1, 2008 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. AUTL-004/01US | : |
| 308614-2036 | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 23, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled***

***to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 1651 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

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 |
|---|---|---|---|---|---|---|
| 12/325,776 | 12/01/2008 | 1651 | 1032 | AUTL-004/01US 308614-2036 | 30 | 4 |

**CONFIRMATION NO. 2181**

**CORRECTED FILING RECEIPT**

58249
COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

*OC000000041912918*

Date Mailed: 06/02/2010

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)**

Piero ANVERSA, Boston, MA;
Annarosa Leri, Boston, MA;
Jan Kajstura, Brookline, MA;

**Power of Attorney:** The patent practitioners associated with Customer Number 58249

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/991,515 11/30/2007
and is a CIP of 11/357,898 02/16/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/11/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/325,776**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

COMPOSITIONS COMPRISING VASCULAR AND MYOCYTE PROGENITOR CELLS AND METHODS OF THEIR USE

**Preliminary Class**

424

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
Lee, Seo, and Park :
Application Number: 12/325807 :
Filed: 12/01/2008 :
Attorney Docket Number: 0465-1970PUS1 :

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on July 22, 2009.

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 December 1, 2008, without an executed oath or declaration. Accordingly, on January 22, 2009, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, the statutory basic filing fee, and a surcharge for their late filing. The search fee, examination fee, and additional claim fees were also required.

On July 22, 2009, the required filing fees, surcharge, and petition fee were paid, along with a four (4) month extension of time. A declaration was filed naming Seong Cheol Lee, Jin Seo, and Sang Hyun Park as joint inventors, signed by all inventors except Park on behalf of themselves and non-signing inventor Park.

Petitioners assert, via the declaration of Ms. So Jeong Lee, an employee of KBK & Associates, that a copy of the application was emailed to the non-signing inventor, but that no response was received. Ms. Lee further avers that the non-signing inventor is believed to reside in Australia.

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 item (1).

The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis <u>to presume</u> that an Emailed document was in a form that can be read <u>and</u> comprehended.

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.

In the event that the application papers are returned as undeliverable, petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope

showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Furthermore, details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if an inventor no longer lives at the last known address, petitioners may show diligent efforts by use of a national registry or other database to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

As such, petitioners should attempt to determine a last known address for the non-signing inventor. Details of the efforts taken to determine the inventor's last known address should be provided with any renewed petition.

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 facts.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have demonstrated that the inventors cannot be reached, despite diligent efforts, or have refused to sign the declaration.

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FALLS CHURCH VA 22040-0747

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FEB 17 2010

| | |
|---|---|
| In re Application of<br>Lee, Seo, and Park<br>Application Number: 12/325807<br>Filed: 12/01/2008<br>Attorney Docket Number: 0465-1970PUS1 | DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT |

Papers filed on January 11, 2010, subsequent to the filing of a reply on November 23, 2009, in response to the decision dismissing petition mailed on September 23, 2009, 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

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KENING LI
PINSENT MASONS LLP
c/o FOUNTAIN LAW GROUP, INC
18201 Von Karman Avenue, Suite 960
Irvine CA 92612

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of
Lee, Chen, Lee, Liang
Application No.: 12/325,840
Filed: December 1, 2008
Attorney Docket No:2907204-031000
For: **COMBINED FOOD PROCESSOR**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed March 13, 2009.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on December 1, 2008, without a properly executed declaration. On December 15, 2008, the Office of 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 March 13, 2009.

Petitioner has shown that inventor Liang has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILSON, SONSINI,
GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

**COPY MAILED**

SEP 1 1 2009

**OFFICE OF PETITIONS**

In re Application of
Robinson, et al.
Application No. 12/325,975
Filed: 1 December, 2008
Attorney Docket No. 30775-719.502

DECISION ON PETITION

This is a decision on the petition filed on 12 June, 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 TIMELY AND PROPERLY 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 C.F.R. §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, generally:* MPEP §409.03, and §409.03(a)—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 to ensure transmittal to the non-signing

inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

*Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.*

## BACKGROUND

The record reflects as follows:

The application was deposited on 1 December, 2008, without, *inter alia*, a fully executed oath/declaration

On 12 December, 2008, the Office mailed a Notice of Missing Parts requiring, *inter alia*, a fully executed oath/declaration.

On 12 June, 2009, Petitioner Albert P. Halluin (Reg. No. 25,227) filed, *inter alia*, a request and fee for extension of time, a petition (with fee) pursuant to 37 C.F.R. §1.47, with an oath/declaration executed by co-inventors Ms. Robinson for herself and on behalf of non-signing inventor Howard A. Ball (Mr. Ball), with a statement as to the current/valid/reasonably believed to be last known address for Mr. Ball. What is clear from the attached declaration of Angela L. Zhang, PhD (Reg. No. 62,138) is that only an oath/declaration (with assignment) was sent to the non-signing inventor and not a copy of the entire application (description, claims, abstract, drawings), as required.

Petitioner must resolve these matters on any renewed petition and is reminded that a grantable petition under 37 C.F.R. §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 entire application (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 must satisfy the requirements 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.

*Petitioners always are 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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300
ATTN: Office of Petitions

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/326,000 | 12/01/2008 | Akira Shimizu | ASMJP.246AUS | 2618 |

7590 06/11/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

| EXAMINER |
|---|
| NGUYEN, KHANH TUAN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1796 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/11/2010 | 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: 06/14/2010 NFARMER
12/02/2008 INTEFSU 00004657 10326000
02 FC:1111 -340.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JAN 25 2010

OFFICE OF PETITIONS

**LAW OFFICE OF R. ALAN BURNETT**
**4108 131ST AVE SE**
**BELLEVUE WA 98006**

| | | |
|---|---|---|
| In re Application of | : | |
| Gary B. ROHRABAUGH, et al | : | |
| Application No. 12/326,092 | : | DECISION ON PETITION |
| Filed: December 1, 2008 | : | TO WITHDRAW |
| Attorney Docket No. 005207-P001XDC | : | 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 3, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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. Alan Burnett on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: GARY ROHRABAUGH
3112 MAPLE RIDGE COURT
BELLINGHAM WA 98229

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 |
|---|---|---|---|
| 12/326,092 | 12/01/2008 | Gary B. Rohrabaugh | 005207.P001XDC |

**CONFIRMATION NO. 2768**

**POWER OF ATTORNEY NOTICE**

59860
LAW OFFICE OF R. ALAN BURNETT
4108 131ST AVE. SE
BELLEVUE, WA 98006

*OC000000039820435*

Date Mailed: 01/25/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/03/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

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Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAR 3 1 2009

OFFICE OF PETITIONS

**Raymond J. Werner**
**2056 NW Aloclek Drive, Suite 314**
**Hillsboro, OR 97124**

In re Application of

Morgan T. Johnson
Application No. 12/326,093
Filed: December 1, 2008
Attorney Docket No. AISI.P030.C2

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 9, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration 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 571-272-4000.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 2883 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/326,129 | 12/02/2008 | James J. O'Brien | 66377A | 2846 |

109 7590 04/21/2010
The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

| EXAMINER |
|---|
| SIMONE, CATHERINE A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1783 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/21/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BC

April 21, 2010

| | | |
|---|---|---|
| In re application of | : | DECISION ON REQUEST TO |
| Hiroshi Yamashita | : | PARTICIPATE IN PATENT |
| Serial No. 12/326,129 | : | PROSECUTION HIGHWAY |
| Filed: December 02, 2008 | : | PROGRAM AND |
| For: ORIENTED POLYMER COMPOSITION | : | PETITION TO MAKE SPECIAL |
| WITH A DEORIENTED SURFACE LAYER | : | UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(d), filed February 09, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof if the latest international work

product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications; and

(8) The required petition fee under 37 CFR 1.17(h).

Conditions (1) and (3-8) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (2). Regarding the requirement of condition (2), the ISA/237 in PCT/US2008/085210 contained observations in Box VIII and the Petitioner has failed to explain why the claims are not subject to these observations.

Applicant is given **ONE** opportunity within a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PCT.652. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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. |
|---|---|---|---|---|
| 12/326,129 | 12/02/2008 | James J. O'Brien | 66377A | 2846 |

109 7590 05/13/2010
The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

| EXAMINER |
|---|
| SIMONE, CATHERINE A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1783 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/13/2010 | 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BC

May 13, 2010

| | | |
|---|---|---|
| In re application of | : | DECISION ON REQUEST TO |
| Hiroshi Yamashita | : | PARTICIPATE IN PATENT |
| Serial No. 12/326,129 | : | PROSECUTION HIGHWAY |
| Filed: December 02, 2008 | : | PROGRAM AND |
| For: ORIENTED POLYMER COMPOSITION | : | PETITION TO MAKE SPECIAL |
| WITH A DEORIENTED SURFACE LAYER | : | UNDER 37 CFR 1.102(d) |

This is a decision on the request for to participate in the PCT Patent Prosecution Highway (PCT-PPH) pilot program and the request for reconsideration under 37 CFR 1.102(d), filed April 29, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate, if the claims are not in the English language;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

(5) Examination of the U.S. application has not begun;

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability along with an English translation thereof if the latest international work

product is not in the English language;

(7) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications; and

(8) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/326,140 | 12/02/2008 | Tomoaki SUNADA | 02886.0126-00000 | 2875 |

7590 03/11/2010
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

| EXAMINER |
|---|
| NGUYEN, CAM N |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1793 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/11/2010 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/11/2010 [illegible]
12/02/2008 INTERST [illegible]
02 FC:1111 -540.00 OP
04 FC:1203 -350.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 2 3 2010

GE ENERGY GENERAL ELECTRIC
C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY NY 12345

| | | |
|---|---|---|
| In re Application of | : | |
| Sujith SATHIAN | : | DECISION ON PETITION |
| Application No. 12/326,150 | : | TO MAKE SPECIAL UNDER |
| Filed: December 02, 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 233368 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed December 16, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining

how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks items 1 and 5.

In regard to item 1, petitioner should note that this application has been classified in an area (USPC 052/040.000) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

In regard to item 5, petitioner should note that the instant petition includes a statement identifying the basis for the special status (i.e., whether the instant invention (1) materially enhances the quality of the environment or materially contributes to (2) development of renewable energy resources or energy conservation, or (3) greenhouse gas reduction) as required by sections II and III of the notice. However, as stated in the notice, applicant must also provide a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets that materiality standard.

Any reconsideration of this decision should be submitted through the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen.

Telephone inquiries concerning this decision should be directed to Lanna Mai at 571-272-6867.

The application is being forwarded to the Technology Center Art Unit 3635 for action in its regular turn.

/Lanna Mai/

Lanna Mai
Quality Assurance Specialist
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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70 N. MAIN ST.
THREE RIVERS MI 49093

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SEP 16 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Charles H. Moore | : | DECISION REFUSING STATUS |
| Application Number: 12/326239 | : | UNDER 37 CFR 1.47(b) |
| Filing Date: 12/02/2008 | : | |
| Attorney Docket Number: 0057-058 | : | |

This is a decision in response to the petition under 37 CFR 1.47(b) filed on April 14, 2009.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on December 2, 2008, without an executed oath or declaration. Accordingly, on January 14, 2009, 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 April 14, 2009, petitioner filed the present petition, surcharge, and petition fee. Authorization for a one (1) month extension of time was also filed.

Petitioner files the present petition and as proof of proprietary interest of Technology Properties Limited LLC's ("TPC") interest in the present application, provided a copy of a

Commercialization Agreement (ComAg) and Amendment Number One between TPC and inventor Charles H. Moor. Petitioner, by way of the Affidavit of F. Eric Saunders, VP and Chief Intellectual Property Officer of TPC, avers that inventor Moore has assigned to TPC inventions arising under a so-called 'Array Program," and based upon Mr. Saunders own personal knowledge, the present application is an invention developed pursuant to the Array Program.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (5).

As to item (5), applicant failed to show or provide proof that TPC, or anyone other than the inventor, has sufficient proprietary interest in the subject matter to justify the filing of the application *(see* MPEP 409.03(f)). Applicant has filed the Affidavit of F. Eric Saunders, VP and Chief Intellectual Property Officer of TPC, avers that inventor Moore has assigned to TPC inventions arising under a so-called 'Array Program,' and based upon Mr. Saunders own personal knowledge, the present application is an invention developed pursuant to the Array Program.

Acceptable proof would include a copy of an assignment of the invention by the inventor to the Rule 47(b) applicant; a copy of proof that the inventor has agreed in writing to assign the invention to the applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that

> jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

MPEP 409.03(f).

While Mr. Saunders avers that inventor Moore has assigned to TPC inventions arising under a so-called 'Array Program,' and based upon Mr. Saunders own personal knowledge, the present application is an invention developed pursuant to the Array Program, the assignment does not clearly evidence an assignment of the present application to TPC. Absent an assignment of the invention by the inventor to the Rule 47(b) applicant; or a copy of proof that the inventor has agreed in writing to assign the invention to the applicant, a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant, is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22134

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**JUL 16 2010**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Charles H. Moore | : | DECISION ACCORDING STATUS |
| Application Number: 12/326239 | : | UNDER 37 CFR 1.47(b) |
| Filing Date: 12/02/2008 | : | |
| Attorney Docket Number: 0057-058 | : | |

This is a decision in response to the renewed petition under 37 CFR 1.47(b) filed on April 16, 2010.

The petition is **GRANTED**.

Petitioners have provided, with the renewed petition, a statement of F. Eric Saunders, stating that the non-signing inventor assigned or agreed to assign the subject invention to the Rule 47(b) applicant, TPL. The subject renewed petition, signed by petitioner's registered patent practitioner, Larry E. Henneman, Jr., includes a statement that Mr. Saunders is an attorney in good standing with the California State Bar.

Based on the statements of Mr. Saunders and petitioners registered patent practitioner, the showing of record is that petitioners have demonstrated sufficient proof of a proprietary interest on the part of the Rule 47(b) applicant.

Additionally, petitioners have provided a proper oath or declaration under 37 CFR 1.63, signed by F. Eric Saunders, Vice President and Chief Intellectual Property Officer for Rule 47(b) applicant Technology Properties Limited LLC, have shown that a copy of the application was provided to the non-signing inventor, but that the non-signing inventor has refused to sign the declaration. Further, petitioners have demonstrated that the filing of the petition is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to Technology Center Art Unit 2123 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Charles H. Moore
P.O. Box 127
Sierra City CA 96125

MAILED

JUL 16 2010

OFFICE OF PETITIONS

In re Application of
Charles H. Moore
Application No. 12/326,239
Filed: December 2, 2008
For: METHOD AND APPARATUS FOR CIRCUIT SIMULATION

Dear Mr. Moore:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HENNEMAN & ASSOCIATES, PLC
70 N. MAIN ST
THREE RIVERS MI 49093

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**MCDERMOTT WILL & EMERY LLP**
**600 13TH STREET, N.W.**
**WASHINGTON DC 20005-3096**

**MAILED**

MAY 06 2010

**OFFICE OF PETITIONS**

In re Application of
Geoffrey Sher et al.
Application No. 12/326,329
Filed: December 2, 2008
Attorney Docket No. 072196-0071

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 16, 2010.

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.

It should also be noted that the customer number provided on the request is not of record in this application.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

**COPY MAILED**

MAY 27 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Mitchell, Sandberg, and Sehler | : | |
| Application No. 12/326,335 | : | DECISION REFUSING STATUS |
| Filing Date: 12/02/2008 | : | UNDER 37 CFR 1.47(a) |
| Attorney Docket Number: 134-07 | : | |

This is in a decision in response to the petition filed on April 15, 2009, which is treated as a petition under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the legal representative of the deceased 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 2, 2008 without an executed oath or declaration.

Accordingly, on January 16, 2009, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, additional claim fees, the application search fee, and the application examination fee.

In response, on April 15, 2009, petitioners submitted the present petition, the filing fee, search fee, examination fee, surcharge, additional claim fees, petition fee, and a request for an extension of time for response within the first month (and fee). Additionally, petitioners filed a declaration naming John Mitchell, Jon Sandberg, and Dwight A. Sehler as joint inventors.

The declaration was signed by all inventors except joint inventor Sandberg.

Petitioners assert that joint inventor Sandberg is deceased and that David A. Turner is his legal representative. In her Declaration, Ms. Rebecca Thompson stated that a copy of the inventors' declaration was sent to Turner via certified mail, but that no response was received.

37 CFR 1.42 states, in part:

> In the case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, 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, or legal representative thereof.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that the legal representative of the deceased non-signing inventor was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). MPEP 409.03(d). In this regard, the papers filed with the petition indicate only that the declaration was sent to the legal representative.

Petitioners may show proof that a copy of the application was sent or given to the legal representative of the deceased non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the legal representative of 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

(specification, including the claims, drawings, if any, and the declaration) was sent or given to the legal representative. If the representative 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.

In the event that Sandberg's legal representative refuses in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. If the refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Assuming, *arguendo*, the application papers had been sent with the declaration, sufficient proof has not been provided that legal representative Turner received the application papers because the Certified Mail receipt is signed by a person with the last name "Runkle." As such, the showing of record is that the papers were not received by the legal representative of the deceased inventor, but by another unknown individual, and it is unclear whether the legal representative of the non-signing inventor identified above ever received the mailing.

However, if petitioners are unable to locate the non-signing legal representative, petitioners must submit sufficient evidence to prove that diligent efforts have been made to locate the legal representative. See MPEP 403.03(d). Specifically, petitioner must state what efforts they made to try to locate a more current address for the non-signing legal representative. If attempts to obtain a forwarding address and to locate the non-signing legal representative by other means such as through E-mail, telephone or the Internet fail, then petitioners will have provided the necessary proof required under 37 CFR 1.47 to show that the legal representative cannot be reached. Details of the efforts to locate the non-signing legal representative should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Petitioners should also submit documentary evidence such as the results of an E-mail, telephone or Internet search.

With regard to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. The declaration must identify the deceased joint inventor by name. A new oath or declaration in compliance with

37 CFR 1.63 and 1.64, signed by all of the signing inventors on behalf of themselves and the non-signing legal representative of the deceased inventor, containing the information described in this paragraph, is required. The appropriate declaration forms accompany this decision for petitioners' convenience.

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

Correspondence may also be submitted via EFS-Web.

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

PTO/SB/130 (03-09)
Approved for use through 03/31/2009. 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 | 12/326,373 | Confirmation Number | 3284 | Filing Date | 2008-12-02 |
| Attorney Docket Number (optional) | | Art Unit | 1615 | Examiner | |
| First Named Inventor | Earnest Aubrey Woodroof | | | | |
| Title of Invention | Artificial Skin Substitute | | | | |

**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 |
|---|---|---|---|
| Earnest | Aubrey | Woodroof | |

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 | /steven webb/ | Date (YYYY-MM-DD) | 2009-03-20 |
| Name | Steven W. Webb | Registration Number | 43246 |

PTO/SB/130 (03-09)
Approved for use through 03/31/2009. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

# Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

# UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Ernest Aubrey Woodroof

Application No. 12326373

Filed: December 2,2008

Attorney Docket No.

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 20-MAR-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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 W. RASCHE (22402)**
**ARMSTRONG TEASDALE LLP**
**ONE METROPOLITAN SQUARE, SUITE 2600**
**ST. LOUIS MO 63102-2740**

**COPY MAILED**
**JAN 20 2010**

| | | |
|---|---|---|
| In re Application of | : | |
| Gurk et al. | : | DECISION ON PETITION |
| Application No. 12/326,382 | : | TO MAKE SPECIAL UNDER |
| Filed: December 2, 2008 | : | GREEN TECHNOLOGIES |
| Attorney Docket No. 230620 | : | PILOT PROGRAM |

This is a decision on the petition, filed December 21, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102(c)(2) and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face

that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks items 1 and 5 as explained below.

In regard to item 1, this application has been classified in an area (USPC class 52, subclass 184) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

In regard to item 5, although petitioner states that the present invention materially contributes to the development of renewable energy resources or energy conservation, the disclosure is not clear on its face that the claimed invention makes such a material contribution. In particular, the disclosed invention relates to a stair platform coupling used in association with a wind turbine tower. Any renewed petition must be accompanied by a statement explaining how such a structure satisfies the materiality standard.

Furthermore, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: 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

By Internet: EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6692. 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 3633 for action in its regular turn.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: General Electric Company
GE Global Patent Operation
PO Box 861
2 Corporate Drive, Suite 648
Shelton, CT 06484

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 12/326,430 | 12/02/2008 | Gary P. Fugitt | 300306-40131 | 3387 |

27805 7590 02/10/2009
THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1794 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/10/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

CST

2/10/09

In re application of
Gary P. Fugitt et al
Serial No. 12/326,430
Filed: December 2, 2008
For: BASECOAT AND ASSOCIATED PAPERBOARD STRUCTURE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on December 2, 2008 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DISMISSED.**

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner;

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition, section II, subsections 1-4 and 6, are considered to have been met. However, the petition fails to comply with condition II, subsection 5.

It appears that the search is incomplete. Note that a search in Class 106/subclasses 461, 463 and 464, as well as a search in Class 428/subclass 537.1, is also required.

Furthermore, the search using the database USPTO EAST should include the terms "caco.sub.3 and caco3" for the calcium carbonate component.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

## DECISION

For the above-stated reasons, the petition is dismissed. The application will therefore be taken up by the examiner in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

/Christine Tierney/

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. |
|---|---|---|---|---|
| 12/326,430 | 12/02/2008 | Gary P. Fugitt | 300306-40131 | 3387 |

27805 7590 03/31/2009
THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

| EXAMINER |
|---|
| ROBINSON, ELIZABETH A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1794 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/31/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MAR 31 2009

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| | | |
|---|---|---|
| In re application of | : | |
| Gary P. Fugitt et al | : | |
| Serial No. 12/326,430 | : | DECISION ON PETITION |
| Filed: December 2, 2008 | : | TO MAKE SPECIAL |
| For: BASECOAT AND ASSOCIATED | : | |
| PAPERBOARD STRUCTURE | : | |

This is a decision on the Request for Reconsideration of Petition to Make Special under the Accelerated Examination Program filed on March 10, 2009 to make the above-identified application special.

The petition to make the application special is **GRANTED.**

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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**JOHNSON & JOHNSON**
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**NEW BRUNSWICK NJ 08933-7003**

**COPY MAILED**

OCT 0 7 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lawter et al. | : | |
| Application No. 12/326,431 | : | ON PETITION |
| Filed: December 2, 2008 | : | |
| Attorney Docket No. ORA5022USNP | : | |

This is a decision on the petition under 37 CFR 1.182, filed, August 12, 2009, to change the name of inventor "Erik deBrun" to – Erik T. deBrun --.

The petition is **DISMISSED**.

The petition under 37 CFR 1.182 to change an inventor's name must include (1) an appropriate petition fee, (2) a statement signed by the inventor setting forth both names and (3) the procedure whereby the change of name was effected, or a copy of the court order.

Petitioner has failed to comply with item (2). The instant petition lacks a statement signed by the inventor, as required by MPEP 605.04(c).

In view of the above, the petition under § 1.182 cannot be granted at this time to change the inventor's name.

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**NEW BRUNSWICK NJ 08933-7003**

**MAILED**

APR 27 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lawter et al. | : | |
| Application No. 12/326,431 | : | ON PETITION |
| Filed: December 2, 2008 | : | |
| Attorney Docket No. ORA5022USNP | : | |

This is a decision on the renewed petition under 37 C.F.R. § 1.182, filed April 9, 2010, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from "Erik deBrun" to -- Erik T. deBrun--.

This matter is being directed to the Office of Data Management for processing into a patent.

Telephone inquiries regarding this decision should be directed to Joan Olszewski at (571) 272-7751. All other inquiries should be directed to the Office of Data Management.

/Liana Walsh/
Liana Walsh
Petitions Examiner
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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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 12/326,431 | 12/02/2008 | 3763 | 1220 | ORA5022USNP | 13 | 1 |

**CONFIRMATION NO. 3388**

**CORRECTED FILING RECEIPT**

27777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

*OC000000041287845*

Date Mailed: 04/27/2010

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)**

James R. Lawter, Yardley, PA;
Zhangwen Wu, New Hope, PA;
Michael J. Rello, Harleysville, PA;
Charles D. Faust, Bensalem, PA;
Erik T. deBrun, Philadelphia, PA;

**Power of Attorney:** The patent practitioners associated with Customer Number 000027777

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/992,193 12/04/2007

**Foreign Applications**

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

**If Required, Foreign Filing License Granted:** 12/10/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/326,431**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

DEVICE FOR DELIVERING MEDICINAL IMPLANTS

**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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
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NEW BRUNSWICK NJ 08933-7003

| | | |
|---|---|---|
| In re Application of | : | |
| Lawter, et al. | : | |
| Application No. 12/326,510 | : | ON PETITION |
| Filed: December 2, 2008 | : | |
| Attorney Docket No. **ORA5024USNP** | | |

This is a decision on the petition under 37 CFR 1.182, filed March 3, 2010, to correct the name of the fifth named inventor cited on this application in USPTO records.

The petition is **granted.**

The name of the third named inventor for the above-cited application is corrected to "Erik T. deBrun."

A corrected filing receipt is enclosed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
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
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 |
|---|---|---|---|---|---|---|
| 12/326,510 | 12/02/2008 | 3763 | 1220 | ORA5024USNP | 10 | 1 |

**CONFIRMATION NO. 3519**

**CORRECTED FILING RECEIPT**

*OC000000041425604*

27777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 05/04/2010

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)**

James R. Lawter, Yardley, PA;
Zhangwen Wu, New Hope, PA;
Michael J. Rello, Harleysville, PA;
Charles D. Faust, Bensalem, PA;
Erik T. deBrun, Philadelphia, PA;

**Power of Attorney:** The patent practitioners associated with Customer Number 000027777

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/992,193 12/04/2007

**Foreign Applications**

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

**If Required, Foreign Filing License Granted:** 12/19/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/326,510**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

ACTUATORS FOR DEVICE FOR DELIVERING MEDICINAL IMPLANTS

**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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Charles J. Cohen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668340 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 12/326,540 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/02/2008 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIW May-09

GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

MAILED

MAY 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Michell, Sandberg, Sehler, | : | |
| Williamson, and Rice | : | DECISION REFUSING STATUS |
| Application Number: 12/326577 | : | UNDER 37 CFR 1.47(a) |
| Filing Date: 12/02/2008 | : | |
| Attorney Docket Number: 171-07 | : | |

This is in a decision in response to the petition filed on April 15, 2009, which is treated as a petition under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the legal representative of the deceased 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 2, 2008 without an executed oath or declaration.

Accordingly, on December 15, 2008, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, additional claim fees, the application search fee, the application examination fee, and additional claim fee(s).

In response, on April 15, 2009, the filing fee, search fee, examination fee, surcharge, excess claims fees, and petition fee were filed, along with a two (2) month extension of time and fee therefor. A declaration was also filed naming John Mitchell, Dwight A. Sehler, Michael Williamson, David Rice, and Jon

Sandberg as joint inventors. The declaration was signed by all inventors except joint inventor Sandberg.

Petitioners assert that joint inventor Sandberg is deceased and that David A. Turner is his legal representative. Petitioners further assert, via the declaration of Rebecca Thompson, that the declaration was sent to Turner via certified mail, but that no response was received.

37 CFR 1.42 states, in part:

> In the case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, 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, or legal representative thereof.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that the legal representative(s) of the deceased non-signing inventor were sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] In this regard, the papers filed with the petition indicate only that the declaration was sent to the legal representative.

Petitioners may show proof that a copy of the application was sent or given to the legal representative of the deceased non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the legal representative(s) of the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

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[1] MPEP 409.03(d).

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application (specification, including the claims, drawings, if any, and the declaration) was sent or given to the legal representative. If the representative 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.

In the event that Sandberg's legal representative(s) refuse in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. If the refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

It is further noted, that assuming, *arguendo*, the application papers had been sent with the declaration, sufficient proof has not been provided that legal representative Turner received the application papers because the Certified Mail receipt is signed by a person with the last name "Runkle." As such, the showing of record is that the papers were not received by the legal representative of the deceased inventor, but by another unknown individual, and it is unclear whether the legal representative of the non-signing inventor identified above ever received the mailing.

With regard to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative(s) of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. The declaration must identify the deceased joint inventor by name. A new oath or declaration in compliance with 37 CFR 1.63 and 1.64, signed by all of the signing inventors on behalf of themselves and the non-signing legal representative of the deceased inventor, containing the information described in this paragraph, is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Attn: Office of Petitions

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.

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

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

**COPY MAILED**

MAR 1 7 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Shin et al. | : | DECISION REFUSING STATUS |
| Application No. 12/326,650 | : | UNDER 37 CFR 1.47(a) |
| Filed: December 2, 2008 | : | |
| Attorney Docket No. P2397US00 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed February 23, 2009.

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 item(s) (2) set forth above.

As to item (2), a review of the declaration and the application data sheet shows that the last known address provided in the petition differs from that provided in the application data sheet and declaration. On renewed petition a newly executed declaration or a signed supplemental application data sheet providing the last known address of inventor Seong-Sik Shin 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

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

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|---|---|---|
| In re Application of | : | |
| Juang-Han Shin, Seung-Hwan Cho, Seong-Sik | : | DECISION GRANTING STATUS |
| Shin, Keun-Kyu Song, and Jung-Hun Noh | : | UNDER 37 CFR 1.47(a) |
| Application No. 12/326,650 | : | |
| Filed: December 2, 2008 | : | |
| Attorney Docket No. P2397US00 | : | |
| For: Organic Thin Film Transistor Substrate | : | |
| and Method of Manufacturing the Same | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 29, 2009.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor Seong-Sik Shin 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

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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Seong-Sik Shin
11656 Cedar Spring Ct.
Cupertino, CA 95014

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of
Juang-Han Shin, Seung-Hwan Cho, Seong-Sik Shin,
Keun-Kyu Song, and Jung-Hun Noh
Application No. 12/326,650
Filed: December 2, 2008
Attorney Docket No. P2397US00
For: Organic Thin Film Transistor Substrate and Method
of Manufacturing the Same

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215. 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: H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

# 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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In re Application of
Susan Matsumoto

Application No. 12326747

Filed:

Attorney Docket No. 0077/0502-US1

: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 03-DEC-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 inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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ALEXANDRIA, VA 22313-1450
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**Davis Wright Tremaine, LLP – San Francisco**
**505 Montgomery Street**
**Suite 800**
**San Francisco, CA 94111**

MAILED

MAR 17 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Peter Roy Havas et al. | : | |
| Application No. 12/326,802 | : | DECISION ON PETITION |
| Filed: December 2, 2008 | : | TO WITHDRAW |
| Attorney Docket No. SPEC-P03 | : | 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 12, 2010.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Davis, Wright, Tremaine, LLP and all attorneys/agents associated with customer number 36267 have been revoked by the assignee of the patent application on February 3, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Schox, PLC
500 3rd Street, Suite 515
San Francisco, CA 94107

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APR 2 4 2009
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

In re Application of:
HOLLAND, NICHOLAS P., et al.
Serial No.: 12/326,807
Filed: December 2, 2008

Title: **SYSTEM AND METHOD FOR DISPLAYING STEREO IMAGES**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on December 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 **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II items 5.2, 5.3.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search in the following class/ subclasses: 345/418, 419, 426, 501 and 530.

If any request for reconsideration is filed, an updated preexamination search must be conducted as per items 5.2 and 5.3 above, and the Preexamination Search Document must be amended to indicate such; a new Information Disclosure Statement should be filed to cite any newly found prior art, and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of any newly found and cited prior art in accordance with all of items 6 through 6.6 above; as well as the necessary updated discussion of patentability for each of the dependent claims (or a statement that claims stand or fall together) as set forth above.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

In re Application of:
HOLLAND, NICHOLAS P.
Serial No.: 12/326,807
Filed: December 2, 2008

Title: **SYSTEM AND METHOD FOR DISPLAYING STEREO IMAGES**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

The petition for reconsideration to make the application special filed May 15, 2009 is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:

If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not

file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

| | | |
|---|---|---|
| In re Application of | : | |
| KAWABATA, SHUNICHI, et al. | : | DECISION ON REQUEST TO |
| Application No. 12/326,808 | : | PARTICIPATE IN PATENT |
| Filed: December 2, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. **NGTOSH.034AUS** | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 19, 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

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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. |
|---|---|---|---|---|
| 12/326,843 | 12/02/2008 | Luc Maria Prudent Govaert | ARNLD5.001AUS | 4137 |

7590 02/01/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

| EXAMINER |
|---|
| RODRIGUEZ, CRIS LOIREN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3732 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/01/2010 | 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

Refund Ref:
01/29/2010 [illegible]

Credit Card Refund Total: $[illegible]

[illegible]

Adjustment date: 01/29/2010 NFARXER
12/03/2008 INTEFSW 00034583 12326843
02 FC:2111 -270.00 OP
04 FC:2202 -26.00 OP



FORM PET651G (Rev. 08/07)

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PRINCETON JCT, NJ 08550

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Gaylord G. Olson | : | |
| Application No. 12/326,886 | : | DECISION ON PETITION |
| Filed: December 3, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. OLS001 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 3, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a 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 further processing. This application will be accorded "special" status once pre-examination processing is complete.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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**6 TIFFANY CT.**
**PRINCETON JCT NJ 08550**

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**OFFICE OF PETITIONS**

In re Application of

Gaylord G. OLSON
Application No. 12/326,886
Filed: December 03, 2008
Attorney Docket No. **OLS001**

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 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. 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 Yue Mae, the sole attorney of record. Yue Mae 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 inventor Gaylord Olson 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: **GAYLORD G. OLSON**
**273 JEFFERSON ROAD**
**PRINCENTON NJ 08540**

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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. |
|---|---|---|---|---|
| 12/326,893 | 12/03/2008 | Weiwen Weng | VTR-200-AE | 4235 |

62542 7590 01/06/2009
O'Connor & Company
P.O. Box 7389
Broomfield, CO 80021-0024

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 3625 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/06/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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P.O. Box 7389
Broomfield CO 80021-0024

| | | |
|---|---|---|
| In re application of | : | **DECISION ON PETITION** |
| Weng, Weiwen | : | **TO MAKE SPECIAL FOR** |
| Application No. 12/326,893 | : | **NEW APPLICATION** |
| Filed: December 3, 2008 | : | **UNDER 37 CFR 1.102** |

For: CONSUMER-ORIENTED ANONYMOUS REQUEST SYSTEM AND METHODS OF INITIATING CONTACT WITH BUSINESS PROVIDERS

This is a decision on the petition filed on December 3, 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 is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where

each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition in this case fails to comply with conditions II.5.1, II.5.2 and II.6.3.

Regarding Condition II.5.1, it is required that Applicant's search involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement.

While Applicant conducted searches of Google.com and Google Scholar, it does not appear that Applicant conducted a search of most of the database files suggested by the search template. Applicant is reminded that search templates, specific to each class/subclass, may be found at http://www.uspto.gov/web/patents/searchtemplates/. For example, the instant application is best classified in 705/26. Looking toward the available search templates and recommended areas of search for class 705/26 (see http://www.uspto.gov/web/patents/searchtemplates/class705-026.htm) some of the more relevant search areas would include a text search in the listed Non-Patent Literature database files. A comprehensive list of recommended database files is found on the 705/26 search template web page as well. Especially relevant to the claimed subject matter are the following database files that have not been searched by Applicant such as:

**ABI/INFORM**
**ACM Digital Library**
**BIOSIS Previews**
**Business & IndustryTM (B&I)**
**Business Wire**
**Dialog Global Reporter**
**EBSCOhost Research Databases**
**Financial Times**
**Gale Group Computer DatabaseTM**
**Gale Group GlobalbaseTM**
**Gale Group Health & Wellness DatabaseSM**
**Gale Group New Product Announcements/Plus (NPA/Plus)**
**Gale Group Newsletter DatabaseTM**
**Gale Group PROMT**
**Gale Group Trade & Industry DatabaseTM**
**Inspec (The Database for Physics, Electronics and Computing)**
**JSTOR Journals**
**McGraw-Hill Companies Publications Online**
**Pharmaceutical and Healthcare Industry News Database (PHIND)**
**ProQuest Direct**
**TecInfoSource (formerly SoftBase: Reviews, Companies, and Products)**

**Wall Street Journal Abstracts**

As per Condition II.5.2, it is required that the search be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation. This includes searching the U.S. class/subclass that the instant application is classified in. The instant application is currently classified in 705/26, which is e-commerce. Applicant should include 705/26 in his U.S. field of search.

Additionally with regard to Condition II.5.2, Applicant did not give the claims the broadest reasonable interpretation by employing adequate synonyms and truncations to the search strategies so as not to overly narrow the searches. Applicant also did not search all of the features of many of the dependent claims. Further, Applicant did not search the features he indicated as patentable in section 9(C) of the support document such as elements (ii), (iv) and (v) of the independent claims. Since Applicant asserts that these features contribute to the patentability of the claimed invention, special emphasis should be placed on these details in the search queries.

A recommended search query for the above features that may be executed in all databases of East is as follows:

L1 (automat$5 near5 (communicat$4 or call$3 or messag$3 or contact$3 or email$3 or e-mail$3 or (electronic near3 messag$3)) near5 (queue$1 or list$4 or index or indice$1 or register$1 or registr$3 or director$3) near5 ((service near3 provider$1) or business$2 or compan$3))

L2 L1 and ((solicit$3 or request$3 or ask$3 or inquir$3 or bid$3 or auction$6) near5 (servic$3 or business$2 or work))

Please keep in mind that this is a non-limiting search suggestion and is only meant to serve as a possible starting point for Applicant's preexamination search for the specific features of elements (ii), (iv) and (v) of the independent claims. It is recommended that the search in all databases including US patent, US patent applications, Foreign and NPL, be updated. Additional guidance regarding the proper manner of performing and documenting a preexamination search may be found on the following web site: http://www.uspto.gov/web/patents/accelerated/ Applicant is expected to perform more supplemental searches than the sample search query listed above.

As per Condition II.6.3. a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c) is required. Applicant has not provided a detailed explanation of how the dependent claims are separately patentable.
The petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

For the above stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within one (1) month or thirty (30) days, whichever is longer, from the date of this decision. No extensions of time will be granted under 37 CFR 1.136(a) if the request is to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Robert Weinhardt at (571) 272-6633, or C. Michelle Tarae at (571) 272-6727, both Business Practice Specialists.

C. Michelle Tarae

C. Michelle Tarae
Business Practice Specialist
Technology Center 3600

CMT/RW/12/31/08

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P.O. Box 7389
Broomfield CO 80021-0024

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|---|---|---|
| In re application of | : | **DECISION ON PETITION** |
| Weng, Weiwen | : | **TO MAKE SPECIAL FOR** |
| Application No. 12/326,893 | : | **NEW APPLICATION** |
| Filed: December 3, 2008 | : | **UNDER 37 CFR 1.102** |

For: CONSUMER-ORIENTED ANONYMOUS REQUEST SYSTEM AND METHODS OF INITIATING CONTACT WITH BUSINESS PROVIDERS

This is a decision on the petition filed on December 3, 2008 and the renewed petition filed on February 4, 2009 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the

first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed to a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated

examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

    If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is

involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to C. Michelle Tarae at (571) 272-6727, or Robert Weinhardt at (571) 272-6633, both Business Practice Specialists.

C. Michelle Tarae

C. Michelle Tarae
Business Practice Specialist
Technology Center 3600

CMT/RW/3/23/09

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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SEP 28 2009

OFFICE OF PETITIONS

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

| | | |
|---|---|---|
| In re Application of | : | |
| Tsan-Yao Chen | : | |
| Application No. 12/326,896 | : | ON PETITION |
| Filed: December 3, 2008 | : | |
| Attorney Docket No. FP13944 | : | |

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 publication fee in response to the Notice of Allowance mailed April 22, 2009. This Notice set a statutory period for reply of three months. No publication fee having been received, the application became abandoned on July 23, 2009. The Office mailed a Notice of Abandonment on August 17, 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 publication 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**J C PATENTS**
**4 VENTURE, SUITE 250**
**IRVINE CA 92618**

**MAILED**

DEC 08 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Chien-Hua Chu et al. | : | |
| Application No. 12/327,078 | : | NOTICE |
| Filed: December 3, 2008 | : | |
| Attorney Docket No. JCLA28851 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 30, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
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. |
|---|---|---|---|---|
| 12/327,151 | 12/03/2008 | Stephen Tsai | T-001.P010/6447-001AUS | 4730 |

7590 06/01/2010

Wang Law Firm, Inc.
4989 Peachtree Parkway,
Suite 200
Norcross, GA 30092

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 3771 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/01/2010 | PAPER |

# DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
06/01/2010 0230204213

Credit Card Refund Total: 0670.00

Adjustment date: 06/01/2010 NFARMER
12/03/2008 INTEFSW 00000023 12327151
02 FC:2111 -270.00 OP



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/327,151 | 12/03/2008 | Stephen Tsai | T-001.P010/6447-001AUS | 4730 |

7590 06/01/2010

Wang Law Firm, Inc.
4989 Peachtree Parkway,
Suite 200
Norcross, GA 30092

| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 3771 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/01/2010 | PAPER |

# DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



FORM PET650D (Rev. 08/07)

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

**RATNERPRESTIA**
**P.O. BOX 980**
**VALLEY FORGE, PA 19482**

COPY MAILED

FEB 13 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John R. **BOEHRINGER, et al.** | : | |
| Application No. 12/327,152 | : | DECISION ON PETITION |
| Filed: December 3, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. **BCLO-100US1** | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 26, 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 certification/declaration of inventor John R. Boehringer, 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 AU 3773 for action on the merits commensurate with this decision.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/327,189 | 12/03/2008 | Shigeru OMORI | 335751US6 | 4797 |

7590 06/30/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3734 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/30/2010 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
06/29/2010 [illegible]

Credit Card Refund Totals $[illegible]

[illegible]

Adjustment date: 06/29/2010 NFARMER
12/04/2008 INTEFSW 00000252 12327189
02 FC:1111 -340.00 CF



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

MAILED

JAN 20 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| XIA ET AL. | : | DECISION ON PETITION |
| Application No. 12/327,246 | : | TO MAKE SPECIAL UNDER |
| Filed: December 3, 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. SL1366 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed December 10, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Gay Ann Spahn at 571-272-8011.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/327,258 | 12/03/2008 | Matthew W. Davis | MPC0267US | 4914 |

23413 7590 01/22/2009
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER |
|---|

| ART UNIT | PAPER NUMBER |
|---|---|
| 1614 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/22/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 22 2008

23413
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| | |
|---|---|
| In re Application of | : |
| Davis, Matthew et al | : DECISION ON PETITION TO MAKE |
| Serial No.: 12/327,258 | : SPECIAL FOR NEW APPLICATION |
| Filed: December 3, 2008 | : UNDER 37 C.F.R. § 1.102 & M.P.E.P. |
| Attorney Docket No.: MPC0267US | : § 708.02 |

This is a decision on the renewed petition filed on December 3, 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, QAS TC 1600, at 571-272-0731

Dave Nguyen
Quality Assurance Specialist
Technology Center 1600

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THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS, MO 63101

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of :
R. Todd Swinderman et al :
Application No. 12/327,407 : ON PETITION
Filed: December 3, 2008 :
Attorney Docket No. 964393-79485

This is a decision on the petition, filed April 20, 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 March 25, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3651 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

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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 Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

**COPY MAILED**

SEP 16 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Mark Andrew Walker, et al. | : | DECISION GRANTING STATUS |
| Application No. 12/327,435 | : | UNDER 37 CFR 1.47(b) |
| Filed: December 3, 2008 | : | |
| Attorney Docket No. 023698-0126 | : | |

This is in response to the petition under 37 CFR 1.47(b), filed July 10, 2009.

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 declaration and petition have been reviewed and found in compliance with 37 CFR 1.47(a). Accordingly, 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) 272-3204.

Sherry D. Brinkley
Petitioner Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MR. JOHN RONALD RICE
5 REDHILL DRIVE, UPPER TEAN
STOKE ON TRENT ST10 4RQ
GREAT BRITAIN

COPY MAILED

SEP 16 2009

OFFICE OF PETITIONS

LETTER

In re Application of :
Mark Andrew Walker and John Ronald Rice :
Application No. 12/327,435 :
Filed: December 3, 2008 :
For: LOW PRESSURE PAINTBALL GUNS :

Dear Mr. Rice:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS, MO 63101

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of :
R. Todd Swinderman et al :
Application No. 12/327,442 :
Filed: December 3, 2008 :
Attorney Docket No. 964393-79486

ON PETITION

This is a decision on the petition, filed April 20, 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 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 3651 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

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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 Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/327,456 | 12/03/2008 | Kevin R. Kirtley | 232760 | 5251 |

7788 7590 02/19/2010
GE ENERGY GENERAL ELECTRIC
C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY, NY 12345

| EXAMINER |
|---|
| LOOK, EDWARD K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3745 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/19/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY NY 12345

| | | |
|---|---|---|
| In re Application of | : | |
| KIRTLEY, KEVIN R. et al | : | DECISION ON PETITION |
| Application No. 12/327,456 | : | TO MAKE SPECIAL UNDER |
| Filed: Dec. 3, 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 232760 | : | PILOT PROGRAM |
| Title: ROOT SLEEVE FOR WIND TURBINE BLADE | | |

This is a decision on the petition under 37 CFR 1.102, filed December 21, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice

before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived. The petition lacks item(s) #1 and #5.

In regard to item 1, petitioner should note that this application has been classified in an area (USPC 416/219.00R) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

In regard to item 5, petitioner should note that the instant petition includes a statement identifying the basis for the special status (i.e., whether the instant invention (1) materially enhances the quality of the environment or materially contributes to (2) development of renewable energy resources or energy conservation, or (3) greenhouse gas reduction) as required by sections II and III of the notice. However, as stated in the notice, applicant must also provide a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets that materiality standard. The statement provided fails to explain how the present invention materially contributes to the development of renewable energy resources or energy conservation.

Any reconsideration of this decision should be submitted through the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856. The application is being forwarded to the Technology Center Art Unit 3745 for action in its regular turn.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

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. |
|---|---|---|---|---|
| 12/327,456 | 12/03/2008 | Kevin R. Kirtley | 232760 | 5251 |

7788 7590 06/25/2010
GE ENERGY GENERAL ELECTRIC
C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY, NY 12345

| EXAMINER |
|---|
| LOOK, EDWARD K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3745 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/25/2010 | 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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C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY NY 12345

| | | |
|---|---|---|
| In re Application of | : | |
| Kevin R. Kirtley, et al. | : | DECISION ON PETITION |
| Application No. 12/327456 | : | TO MAKE SPECIAL UNDER |
| Filed: Dec. 3, 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 232760 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed June 15, 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009) and amended by 75 Federal Register Notice 28554 (May 21, 2010).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must have no more than 3 independent claims and no more than 20 total claims. 2) The application must not contain any multiple dependent claims. 3) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 4) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a

request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 8 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

The application is being forwarded to the Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

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Paper No.

ROBERTS MLOTKOWSKI SAFRAN &
COLE, P.C.
Intellectual Property
Department
P.O. Box 10064
MCLEAN VA 22102-8064

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kumada et al. | : | DECISION ON PETITION |
| Application No. 12/327,460 | : | |
| Deposited: December 3, 2008 | : | |
| Atty Docket No. 740145-376 | : | |

This is a decision on the "PETITION UNDER 37 CFR 1.57(a) IN RESPONSE TO NOTICE OF INCOMPLETE APPLICATION FILED UNDER 37 CFR 1.53(b)" filed January 5, 2009, petitioning for the above-identified application to be granted the filing date of December 3, 2008, the date on which the above-identified application was filed with a priority claim under 37 CFR 1.55; and to add the inadvertently omitted drawings (figs. 1-5) to the above-identified application in accordance with 37 CFR 1.57(a).

The petition is **DISMISSED**.

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to supply 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 1.57(a)."

Application papers in the above-identified application were deposited on December 3, 2008. However, on January 5, 2009, 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. This Notice set a two-month period for reply.

In response, applicants filed the instant petition pursuant to 37 CFR 1.57, on the basis that the application as filed incorporated by reference the omitted drawings via the priority claim under 37 CFR 1.55 set forth in the application data sheet (ADS) on filing of the application.

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.

A review of the application as filed reveals that it claimed foreign priority to Japanese patent application JP 2007-326957.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, 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 under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;
>
> (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

The petition has been reviewed, and it is determined that the requirements of 37 CFR 1.57(a) have not been met. 37 CFR 1.57(a) permits inadvertently omitted material to be added to the application by way of a later filed amendment if the inadvertently omitted portion of the specification or drawing(s) is completely contained in a prior-filed application (for which priority/benefit is claimed) even though there is no explicit incorporation by reference of the prior-filed application. See MPEP § 201.17 for discussing regarding 37 CFR 1.57(a). Applicant has provided copies of the drawings, but has not stated that they are from the foreign priority application. Moreover, applicant has not supplied a complete copy of the foreign application and if applicable, an English translation. Moreover, applicant has not stated where the drawings are in the foreign application and has not submitted an amendment to enter the drawings.

In view thereof, the petition is dismissed.

Receipt of the petition fee is acknowledged.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney, Nancy Johnson at (571) 272-3219.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

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Paper No.

ROBERTS MLOTKOWSKI SAFRAN &
COLE, P.C.
Intellectual Property
Department
P.O. Box 10064
MCLEAN VA 22102-8064

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MAR 23 2010

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| | | |
|---|---|---|
| In re Application of | : | |
| Kumada et al. | : | DECISION ON PETITION |
| Application No. 12/327,460 | : | |
| Deposited: December 3, 2008 | : | |
| Atty Docket No. 740145-376 | : | |

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.57(a)" filed June 1, 2009, petitioning for the above-identified application to be granted the filing date of December 3, 2008, the date on which the above-identified application was filed with a priority claim under 37 CFR 1.55; and to add the inadvertently omitted drawings (figs. 1-5) to the above-identified application in accordance with 37 CFR 1.57(a). This decision is made in light of the submission of replacement drawings in compliance with 37 CFR 1.121(d) on March 12, 2010.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on December 3, 2008. However, on January 5, 2009, 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.

By decision mailed March 27, 2009, the initial petition pursuant to 37 CFR 1.57 filed January 5, 2009 was dismissed. It was shown that the application as filed claimed foreign priority to Japanese patent application JP 2007-326957. However, petitioner did not state that the drawings supplied on petition were from the foreign application and point out where in the foreign application the drawings were present; did not supply a complete

copy of the foreign application and English translation; and did not submit an amendment to enter the inadvertently omitted drawings, all requirements of 37 CFR 1.57(a).

On instant renewed petition, applicants submitted an amendment pursuant to 37 CFR 1.57(a) to enter the omitted drawings, a complete copy of the foreign application and an English translation; and stated that the drawings were from the foreign application.

The application is being forwarded to the Office of Patent Application Processing for

- **according of a filing date of December 3, 2008** as an application claiming the benefit of foreign application No. JP 2007-326957, including the copy of the drawing sheets from the prior application supplied on March 12, 2010.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney, Nancy Johnson at (571) 272-3219.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

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**DICKINSON WRIGHT, PLLC**
**1875 EYE STREET NW, SUITE 1200**
**WASHINGTON, DC 20006**

**MAILED**

JUL 16 2010

**OFFICE OF PETITIONS**

In re Application of
**Nils FISCHBECK**, et *al.*
Application No. 12/327,483
Filed: December 3, 2008
Attorney Docket No. **39090-00183**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application.

The 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.***

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation

pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The 3.73(b) statement submitted on September 22, 2009 contained the chain of title from the original owner to the assignee in the prior filed application 11/122,594, not that of the above continuation application.

All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a change of correspondence address containing a proper 3.73(b) statement has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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CHICAGO IL 60606

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Martin Achenbach | : | DECISION GRANTING PETITION |
| Application No. 12/327,502 | : | FOR FILING DATE |
| Filed: December 3, 2008 | : | |
| Attorney Docket No. 4357.82663 | : | |

This is a decision on the petition filed July 6, 2009, which is being treated under 37 CFR 1.53(e), requesting that this application be accorded a filing date of December 3, 2008.

The petition under 37 CFR 1.53(e) is **granted**.

The application was deposited on December 3, 2008. However, petitioner states that "As filed, the above-identified application inadvertently omitted the correct drawings, and instead included drawings from another application." Petitioner requests that the existing drawings be replaced with the drawings from the priority document and incorporated by reference in the present application.

However, this application contained, on filing, at least one method, claim, which normally does not require a drawing. It is USPTO policy, per MPEP 601.01(f), to treat such an application under the procedure set forth in MPEP 601.01(g).

In view of the above, this application is being granted the filing date of December 3, 2008.

Further, petitioner needs to file an amendment to add the drawings to the file since the filing on July 6, 2009, is not an amendment. The examiner would then review the drawings for new matter and will determine if the amendment should be entered.

Given the basis for granting this petition, the petition fee of $400 is unnecessary. Petitioner may request a refund of the petition fee by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

This matter is being referred to Technology Center AU 3611 to await the submission of an amendment.

Telephone inquiries 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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November 23, 2009 BC

| | | |
|---|---|---|
| In re application of | : | DECISION ON REQUEST TO |
| Masatoshi Hano et al. | : | PARTICIPATE IN PATENT |
| Serial No. 12/327,517 | : | PROSECUTION HIGHWAY |
| Filed: December 3, 2008 | : | PROGRAM AND |
| For: ALKALINE BATTERY AND BATTERY | : | PETITION TO MAKE SPECIAL |
| PACK | : | UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed October 23, 2009.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
   a. Documentation of prior office action:

i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or

ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or

iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;

b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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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**IBM CORP. (JGT)**
**C/O TOLER LAW GROUP**
**8500 BLUFFSTONE COVE**
**SUITE A201**
**AUSTIN TX 78759**

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| In re Application of | : | |
| Akiyama et al. | : | |
| Application No. 12/327,548 | : | ON PETITION |
| Filed: December 3, 2008 | : | |
| Attorney Docket No. JP920070145US1 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Replacement Drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing. Thereafter, the application will be referred to Technology Center AU 2614 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**KELLEY DRYE & WARREN LLP**
**400 Atlantic Street, 13th Floor**
**Stamford, CT 06901**

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AUG 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| William F. Cote, et al. | : | |
| Application No. 12/327,594 | : | DECISION ON PETITION |
| Filed: December 3, 2008 | : | TO WITHDRAW |
| Attorney Docket No. NU-154(US)(C) | : | 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, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Kelley Drye & Warren LLP has been revoked by the assignee of the patent application on August 12, 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: **WOLF GREENFIELD & SACKS, P.C.**
**600 Atlantic Avenue**
**Boston, MA 02210-2206**

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AUG 27 2009

OFFICE OF PETITIONS

**Paul E. Lewkowicz, P.C.**
**3 Davis Road**
**Southborough, MA 01772-1824**

| | | |
|---|---|---|
| In re Application of | : | |
| Ben Osman Richardson | : | |
| Application No. 12/327,619 | : | DECISION ON PETITION |
| Filed: December 3, 2008 | : | TO WITHDRAW |
| Attorney Docket No. FLUX-0001-P01 | : | 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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul E. Lewkowicz on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ben Osman Richardson**
**8 Calais Street, Apt. 2**
**Nashua, NH 03060**

cc: **Fluxgen Lighting Systems, Inc.**
**189 Richdale Ave., Suite B-9**
**Cambridge, MA 02140**

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 |
|---|---|---|---|
| 12/327,619 | 12/03/2008 | Ben Osman RICHARDSON | FLUX-0001-P01 |

**CONFIRMATION NO. 5497**

**POWER OF ATTORNEY NOTICE**

67619
PAUL E. LEWKOWICZ, P.C.
3 DAVIS ROAD
SOUTHBOROUGH, MA 01772-1824

*OC000000037534522*

Date Mailed: 08/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/09/2009.

- 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.

/tswilliams/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**TOWNSEND AND TOWNSEND AND CREW, LLP**
**TWO EMBARCADERO CENTER**
**EIGHTH FLOOR**
**SAN FRANCISCO CA 94111-3834**

**MAILED**

JUL 17 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kaplan et al. | : | DECISION ON PETITION |
| Application No. 12/327,727 | : | TO WITHDRAW |
| Filed: December 3, 2008 | : | FROM RECORD |
| Attorney Docket No. 027643-000710US | : | |

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 5, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c). Petitioner has complied with the above items.

However, 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.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. Accordingly, all future correspondence will continue to be mailed the above address until otherwise properly notified.

The instant application is currently awaiting examination in Technology Center AU 2622.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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**MAILED**

MAR 2 9 2010

**OFFICE OF PETITIONS**

In re Application of
Hari Sankar et al.
Application No. 12/327,732
Filed: December 3, 2008
Attorney Docket No. **WILAN-P00545US1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed January 25, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 20350 has been revoked by the applicants of the patent application on March 8, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/327,743 | 12/03/2008 | Kevin R. Gibson | 025902-007620US | 5719 |

20350 7590 01/14/2009
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 1795 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/14/2009 | 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.

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CST

1-14-09

In re application of
Kevin R. Gibson et al
Serial No. 12/327,743
Filed: December 3, 2008
For: SOLAR CELL STRUCTURE INCLUDING A PLURALITY OF CONCENTRATOR ELEMENTS WITH A NOTCH DESIGN AND PREDETERMINED RADII AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on December 3, 2008 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DENIED.**

## REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete and in

condition for examination. Note, specifically, the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION mailed on December 10, 2008, which indicates that the application was not in condition for examination at the time of filing.

MPEP 708.02(a), section VIII further states:

> The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (subsection II above) does not apply to applications that are not in condition for examination on filing.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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JUL 16 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

| | | |
|---|---|---|
| In re Application of | : | |
| TSUCHIDA, MASAKI, et al | : | DECISION ON REQUEST TO |
| Application No. 12/327,746 | : | PARTICIPATE IN PATENT |
| Filed: December 12, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 8616P539 | : | 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 May 08, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/327,747 | 12/03/2008 | Tsutomu Rokuhara | 6639P540 | 5725 |

8791 7590 07/14/2009
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

| EXAMINER |
|---|
| NEURAUTER, GEORGE C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2443 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/14/2009 | 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.

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of: Tsutomu Rokuhara et al.
Application No. 12/327,747
Filed: December 3, 2008
For: **INFORMATION PROCESSING APPARATUS AND INFORMATION PROCESSING SYSTEM**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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 8, 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 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 are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 29 2010

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TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

| | | |
|---|---|---|
| In re Application of | : | |
| USHIMARU, CHIKARA | : | DECISION ON REQUEST TO |
| Application No. 12/327,752 | : | PARTICIPATE IN PATENT |
| Filed: December 03, 2008 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 6639P541 | : | PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed February 09, 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 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

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**MORRISON & FOERSTER LLP**
**425 MARKET STREEET**
**SAN FRANCISCO CA 94105-2482**

MAILED

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Patrick Pak Tak Leong | : | DECISION ON PETITION |
| Application No. 12/327,756 | : | TO WITHDRAW |
| Filed: December 3, 2008 | : | FROM RECORD |
| Attorney Docket No. GMVIP03 | : | |

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 28, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 3, 2009 the power of attorney to Morrison & Foerster LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Vista IP Law Group, LLP
1885 Lundy Ave., Suite 108
San Jose CA 95131

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**SAN FRANCISCO CA 94111-3834**

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JUL 17 2009

**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Kaplan et al. | : | DECISION ON PETITION |
| Application No. 12/327,764 | : | TO WITHDRAW |
| Filed: December 3, 2008 | : | FROM RECORD |
| Attorney Docket No. 027643-000720US | : | |

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 5, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c). Petitioner has complied with the above items.

However, 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.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. Accordingly, all future correspondence will continue to be mailed the above address until otherwise properly notified.

The instant application is currently awaiting examination in Technology Center AU 2622.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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**SAN FRANCISCO CA 94111-3834**

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JUL 17 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Kaplan et al. | : | DECISION ON PETITION |
| Application No. 12/327,775 | : | TO WITHDRAW |
| Filed: December 3, 2008 | : | FROM RECORD |
| Attorney Docket No. 027643-000730US | : | |

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 5, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c). Petitioner has complied with the above items.

However, 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.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. Accordingly, all future correspondence will continue to be mailed the above address until otherwise properly notified.

The instant application is currently awaiting examination in Technology Center AU 2622.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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**SAN FRANCISCO CA 94111-3834**

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JUL 17 2009

**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Kaplan et al. | : | DECISION ON PETITION |
| Application No. 12/327,779 | : | TO WITHDRAW |
| Filed: December 3, 2008 | : | FROM RECORD |
| Attorney Docket No. 027643-000740US | : | |

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 5, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c). Petitioner has complied with the above items.

However, 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.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. Accordingly, all future correspondence will continue to be mailed the above address until otherwise properly notified.

The instant application is currently awaiting examination in Technology Center AU 2622.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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**MAYER & WILLIAMS PC**
**251 NORTH AVENUE WEST**
**2ND FLOOR**
**WESTFIELD NJ 07090**

MAILED

JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sheth, Piyush | : | |
| Application No. 12/327,905 | : | DECISION GRANTING STATUS |
| Filed: December 4, 2008 | : | STATUS UNDER 37 CFR 1.47(b) |
| Attorney Docket No. 05-01548US2 | : | |

This is in response to the petition under 37 CFR 1.47(b), filed July 17, 2009.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Piyush Sheth, has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to Technology Center AU 1616 for examination on the merits.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**PIYUSH K. SHETH**
**3209 10TH STREET, APT. Z5**
**BLOOMINGTON, IN 47408**

MAILED

JUN 30 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sheth, Piyush | : | |
| Application No. 12/327,905 | : | ON PETITION |
| Filed: December 4, 2008 | : | |
| Attorney Docket No. 05-01548US2 | : | |

Mr. Sheth,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria VA 22314

12/9/09

| | | |
|---|---|---|
| In re Application of | : | |
| TAKANO, MARIKO et al | : | DECISION ON REQUEST TO |
| Application No. 12/327,935 | : | PARTICIPATE IN PATENT |
| Filed: Dec. 4, 209 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 01246_1000 | : | PROGRAM AND PETITION |
| For: TORSO | : | 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 December 8, 2009 to make the above-identified application special.

The request and petition are **dismissed**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition met all conditions except Item #6 above. The request to participate in the PPH pilot program and petition fail to include:
1. Utility Model Application No. S62-35175 (Publication No, $63-143394) microfilm; 2. Utility Model Application No. S53-121610 (Publication No. S55-38914) microfilm; 3. Utility Model

Application No. S62-52797 (Publication No. S$63-160894) microfilm; and 4. Utility Model Application No. S59-157236 (Publication No. S61-73394) microfilm. The patent documents were cited in the corresponding JPO Office action of Deb. 3. 2009.

Applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

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 EFS-Web. Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

/Henry C. Yuen/

Henry C. Yuen
Special Programs Examiner
Technology Center 3700
Tel: 571-272-4856

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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
James G. Couillard et al
Application No. 12/328,030
Filed: December 4, 2008
Attorney Docket No. SP03-018F

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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 the above-noted, prior-filed application 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 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). The incorporation by reference of application no. 11/650,270 is improper.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement 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 Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petition Examiner
Office of Petitions

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MAY 18 2010

OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of
James G. Couillard et al
Application No. 12/328,030
Filed: December 4, 2008
Attorney Docket No. SP03-018F

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed April 12, 2010 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 set forth in the amendment filed September 28, 2009.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-***

***filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. 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 2891 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucci
Petition 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 |
|---|---|---|---|---|---|---|
| 12/328,030 | 12/04/2008 | 2891 | 3022 | SP03-018F | 36 | 8 |

**CONFIRMATION NO. 6231**

**CORRECTED FILING RECEIPT**

22928
CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

*OC000000041647482*

Date Mailed: 05/17/2010

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)**

James G. Couillard, Ithaca, NY;
Kishor P. Gadkaree, Big Flats, NY;
Joseph F. Mach, Lindley, NY;

**Power of Attorney:** The patent practitioners associated with Customer Number 22928

**Domestic Priority data as claimed by applicant**

This application is a DIV of 11/650,270 01/05/2007 PAT 7,476,940
which is a DIV of 10/779,582 02/12/2004 PAT 7,176,528
which claims benefit of 60/448,176 02/18/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/18/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/328,030**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

GLASS-BASED SOI STRUCTURES

**Preliminary Class**

257

## 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. |
|---|---|---|---|---|
| 12/328,056 | 12/04/2008 | Dominic Camilleri | 33849-222 | 6280 |

30903 7590 06/05/2009
CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

| EXAMINER |
|---|
| SHAH, KAMINI S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2128 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/05/2009 | 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.

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CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

In re Application of:
Dominic Camilleri
Serial No.:12/328,056
Filed: December 4, 2008
Docket: 33849-222
Title: SYSTEMS AND METHODS FOR UTILIZING CELL BASED FLOW SIMULATION RESULTS TO CALCULATE STREAMLINE TRAJECTORIES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on December 4, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention;

5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it is a utility application filed under 37 CFR 1.111(a) and was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of the Notice to File Corrected Application Papers on December 9, 2008 is evidence that the application was not complete and in condition for examination at the time of filing.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan., Quality Assurance Specialist can be reached at (571)272-4210.

Kakali Chaki, Quality Assurance Specialist

Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/328,056 | 12/04/2008 | Dominic Camilleri | 33849-222 | 6280 |

30903 7590 09/08/2009
CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

| EXAMINER |
|---|
| SHAH, KAMINI S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2128 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 09/08/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

wjensen@craincaton.com
jhudson@craincaton.com
mhayden@craincaton.com

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FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON TX 77010

9/4/09

In re Application of: Dominic Camilleri
Serial No.: 12/328,056
Filed: December 4, 2008
Docket: 33849-222
Title: SYSTEMS AND METHODS FOR UTILIZING CELL BASED FLOW SIMULATION RESULTS TO CALCULATE STREAMLINE TRAJECTORIES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the request for reconsideration filed on June 18, 2009 of the decision mailed June 5, 2009 denying the petition filed December 4, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

In the decision mailed June 5, 2009 denying the petition filed December 4, 2008 the undersigned stated that the application was not complete for examination at the time of filing, citing a Notice to File Corrected Drawings mailed to the Applicant on December 9, 2008. The Notice indicated that at least some of the drawing figures filed with the application were not electronically reproducible.

In the request for reconsideration filed June 18, 2009 Petitioner contends that the Notice of December 9, 2008 was sent in error since the quality of the drawings may have deteriorated during electronic transmission at the time of filing. Petitioner further contends that Applicant's representative has brought this to the attention of the Office on at least two occasions.

A review of the records indicates that a second Notice to file corrected drawings mailed on February 2, 2009 was withdrawn in a letter mailed to the Applicant February 9, 2009.

In view of the absence of any evidence that the drawings submitted by the Applicant at the time of filing were indeed not electronically reproducible, the decision to deny the petition to make special mailed on June 5, 2009 is hereby withdrawn, and upon reviewing the petition to make the application special filed December 4, 2008 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 to the undersigned at (571) 272-3719.

/Kakali Chaki/

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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OSRAM SYLVANIA INC
100 ENDICOTT STREET
DANVERS, MA 01923

COPY MAILED

DEC 10 2009

OFFICE OF PETITIONS

In re Application of Schaefer et al. :
Application No. 12/328,072 :
Filing Date: December 4, 2008 :
Attorney Docket No. 2008P17565US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Omitted Item(s) in a Nonprovisional Application mailed December 16, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the application became abandoned on February 18, 2009. A Notice of Abandonment was mailed on August 26, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice to File Missing Items. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Examination Processing will be informed of the instant decision. Thereafter, the Office of Patent Examination Processing will prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

NITEISTATES PATENT AND TRADEMARK OFFICE

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**MORTON A. POLSTER**
**BROWN & MICHAELS, P.C.**
**400 M & T BANK BUILDING**
**118 N. TIOGA STREET**
**ITHACA NY 14850**

MAILED

NOV 25 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Matthew R. Wrona et al | : | |
| Application No. 12/328,177 | : | DECISION ON PETITION |
| Filed: December 4, 2008 | : | |
| Attorney Docket No. RTOR-28DIV | : | |

This is a decision on the petition under 37 CFR 1.182, filed February 17, 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.

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 the Office of Data Management to await a reply to the Notice of Allowance mailed November 5, 2009.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 12/328,177 | 12/04/2008 | 3745 | 462 | RTOR-28DIV | 17 | 2 |

**CONFIRMATION NO. 6487**

**CORRECTED FILING RECEIPT**

38512
MORTON A. POLSTER
BROWN & MICHAELS, P.C.
400 M & T BANK BUILDING
118 N. TIOGA STREET
ITHACA, NY 14850

*OC000000038963431*

Date Mailed: 11/24/2009

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)**

James Y. Gleasman, Rochester, NY;
Keith E. Gleasman, Fairport, NY;
Matthew R. Wrona, Fairport, NY;

**Assignment For Published Patent Application**

TORVEC, INC., Rochester, NY

**Power of Attorney:** The patent practitioners associated with Customer Number 020808

**Domestic Priority data as claimed by applicant**

This application is a DIV of 11/153,112 06/15/2005 PAT 7,475,617

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/12/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/328,177**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

ORBITAL TRANSMISSION WITH GEARED OVERDRIVE

**Preliminary Class**

092

## 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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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 SATELLITE BLVD., 2ND FLOOR
DULUTH, GA 30096

MAILED
MAY 21 2010
OFFICE OF PETITIONS

In re Application of
Donald BLUST et al.
Application No. 12/328,195
Filed: December 4, 2008
Attorney Docket No. 14656 D05

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 25, 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 above-identified application became abandoned on September 26, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 25, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The application file is being referred to Technology Center AU 3651 for appropriate action on the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

Ramesh Krishnamurthy

for David A. Bucci
Petitions Examiner
Office of Petitions

CC: Peter H. Priest
5015 Southpark Drive, Suite 230
Durham, NC 27713-7736

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400 M & T BANK BUILDING
118 N. TIOGA STREET
ITHACA NY 14850

MAILED

MAR 23 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Gleasman et al. | : | |
| Application No. 12/328223 | : | DECISION ON PETITION |
| Filed: 12/04/2008 | : | |
| Attorney Docket No. RTOR-28DIV2 | : | |

This is a decision on the petition under 37 CFR 1.182, filed February 17, 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.

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 3655 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-

D Wood

Douglas I. Wood
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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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 12/328,223 | 12/04/2008 | 3655 | 462 | RTOR-28DIV2 | 16 | 3 |

**CONFIRMATION NO. 6562**

**CORRECTED FILING RECEIPT**

38512
MORTON A. POLSTER
BROWN & MICHAELS, P.C.
400 M & T BANK BUILDING
118 N. TIOGA STREET
ITHACA, NY 14850

*OC000000035098997*

Date Mailed: 03/23/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

James Y. Gleasman, Rochester, NY;
Keith E. Gleasman, Fairport, NY;
Matthew R. Wrona, Fairport, NY;

**Assignment For Published Patent Application**

TORVEC, INC., Rochester, NY

**Power of Attorney:** The patent practitioners associated with Customer Number 020808

**Domestic Priority data as claimed by applicant**

This application is a DIV of 11/153,112 06/15/2005 PAT 7,475,617

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/12/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/328,223**

**Projected Publication Date:** 03/26/2009

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

ORBITAL TRANSMISSION WITH GEARED OVERDRIVE

**Preliminary Class**

074

## 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.

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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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GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932

**MAILED**

APR 08 2010

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Semler et al.<br>Application No. 12/328,306<br>Filed: December 4, 2008<br>Attorney Docket No. 103248-011101 | DECISION ON PETITION<br>UNDER 37 CFR 1.78(a)(3) |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be***

***construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 3775 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 12/328,306 | 12/04/2008 | 3775 | 1920 | 103248-011101 | 25 | 5 |

**CONFIRMATION NO. 6674**

**CORRECTED FILING RECEIPT**

67395
GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK, NJ 07932

*OC000000040961805*

Date Mailed: 04/05/2010

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)**

Eric J. Semler, Piscataway, NJ;
Alex B. Callahan, Perth Amboy, NJ;
Katherine G. Truncale, Hillsborough, NJ;
Roman Shikhanovich, Edison, NJ;

**Power of Attorney:** The patent practitioners associated with Customer Number 67395

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/996,800 12/05/2007
and is a CIP of 11/657,042 01/24/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/11/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/328,306**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Cancellous Bone Implant for Cartilage Repair

**Preliminary Class**

606

## 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**BARLEY MILL PLAZA 25/1122B**
**4417 LANCASTER PIKE**
**WILMINGTON DE 19805**

| | | |
|---|---|---|
| In re Application of | : | |
| C. Chad Roberts | : | |
| Application No. 12/328,332 | : | DECISION ON PETITION |
| Filed: December 4, 2008 | : | |
| Attorney Docket No. IJ0170USNA | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed January 21, 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 March 22, 2009. A Notice of Abandonment was mailed September 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath and declaration with the required $130 surcharge fee, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the oath and declaration and fee are accepted as being unintentionally delayed.

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received October 9, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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Paper No.

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA NY 12309

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JUN 23 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Yudong Zhu and Thomas Kwok-Fah | : | |
| Foo | : | |
| Application No. 12/328,444 | : | DECISION ON PETITION |
| Filed: December 4, 2008 | : | PURSUANT TO |
| Attorney Docket No. 220724-1 | : | 37 C.F.R. § 1.47(A) |
| Title: METHOD AND APPARATUS FOR | : | |
| GENERATING A LOCALIZED HEATING | : | |

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on May 26, 2009.

This petition is **DISMISSED**.

On December 4, 2008, the application was filed, identifying Yudong Zhu and Thomas Kwok-Fah Foo as joint inventors. A fully executed oath or declaration was not included on filing, and as such, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed on December 23, 2008, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

On May 26, 2009, this petition was filed along with, *inter alia*, the petition fee, a declaration that has been executed by Mr. Foo and the surcharge that is associated with the late submission of the same, the last-known address of the non-signing inventor, and a three-month extension of time, so as to make timely this response.[1] Petitioner has further included a declaration of facts that establishes that a complete copy of the application was sent to the "last known home address" of the non-signing inventor and he orally indicated that the failure to receive a

1 It is noted that May 23, 2009 fell on a Saturday, and May 25, 2009 fell on a Federal Holiday.

response should be interpreted as a refusal to execute the declaration.

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);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

Petitioner has met requirements (1), (2), and (4) of 37 C.F.R. § 1.47(a). It cannot be determined if the third and fifth requirements have been satisfied.

More specifically, it cannot be determined if Petitioner has submitted a declaration which complies with 37 C.F.R. § 1.63(c)(1). Petitioner has indicated that a complete copy of the application was sent to "Mr. Zhu's last known home address," and has included a copy of the cover letter that accompanied this mailing, which contains the following address: "**Apt. G, 311** Hollandale Lane, Clifton Park, NY, 12065." As such, this is the address that has been set forth as the non-signing inventor's last known address. The declaration that was included with this petition contains a different address: "**31G** Hollandale Lane, Clifton Park, New York, 12065." It is noted that this same address appears on both the Application Data Sheet (ADS) that was submitted on original deposit and the Express Mail receipt that was submitted with this petition.

**It cannot be determined which of these two addresses is correct.**

**If this letter contains an incorrect address, and the declaration contains the correct address, this must be indicated on renewed**

**petition.**[2]

**If the statement of the last known address contains the correct address, on renewed petition, Petitioner should include either a declaration or a Supplemental ADS that contains the correct address for non-signing joint inventor Zhu.**

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.

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,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[7]

Paul Shanoski
Senior Attorney
Office of Petitions

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2 It is noted that Petitioner has indicated that he spoke with an individual who confirmed that the package was received.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA NY 12309

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SEP 09 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of<br>Yudong Zhu and Thomas Kwok-Fah Foo<br>Application No. 12/328,444<br>Filed: December 4, 2008<br>Attorney Docket No. 220724-1<br>Title: METHOD AND APPARATUS FOR GENERATING A LOCALIZED HEATING | DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A) |

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on August 24, 2009.[1]

This renewed petition is **DISMISSED**.

On December 4, 2008, the application was filed, identifying Yudong Zhu and Thomas Kwok-Fah Foo as joint inventors. A fully executed oath or declaration was not included on filing, and as such, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed on December 23, 2008, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) either

1 It is noted that August 23, 2009 fell on a Sunday.

a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

On May 26, 2009, an original petition pursuant to 37 C.F.R. § 1.47(a) was filed. The original petition was dismissed via the mailing of a decision on June 23, 2009, which indicated that requirements (1), (2), and (4) of 37 C.F.R. § 1.47(a) had been satisfied, and that it could not be determined if the third and fifth requirements have been satisfied, as conflicting information was presented as to Mr. Zhu's last known home address.

With this renewed petition, Petitioner has attempted to achieve joinder via the submission of a declaration that has been executed by Mr. Zhu, the formerly non-signing joint inventor.

However, **this declaration cannot be accepted, as it contains non-initialed and non-dated changes by inventor Zhu.**[2]

**Prior to filing the second renewed petition, Petitioner should have Mr. Zhu execute a declaration which contains his correct address.**

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.

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,[3] hand-delivery,[4] or facsimile.[5]

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2 See 37 C.F.R. §1.52(c)(1) and MPEP § 605.04(a).
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[7]

Paul Shanoski
Senior Attorney
Office of Petitions

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).

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Paper No.

GENERAL ELECTRIC COMPANY
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**JAN 05 2010**

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|---|---|---|
| In re Application of | : | |
| Yudong Zhu and Thomas Kwok-Fah | : | |
| Foo | : | |
| Application No. 12/328,444 | : | DECISION ON SECOND RENEWED |
| Filed: December 4, 2008 | : | PETITION PURSUANT TO |
| Attorney Docket No. 220724-1 | : | 37 C.F.R. § 1.47(A) |
| Title: METHOD AND APPARATUS FOR | : | |
| GENERATING A LOCALIZED HEATING | : | |

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on December 8, 2009.

This second renewed petition is **DISMISSED AS MOOT.**

On December 4, 2008, the application was filed, identifying Yudong Zhu and Thomas Kwok-Fah Foo as joint inventors. A fully executed oath or declaration was not included on filing, and as such, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed on December 23, 2008, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) either
    a) proof that a copy of the entire application (specification, claims,

drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

On May 26, 2009, an original petition pursuant to 37 C.F.R. § 1.47(a) was filed. The original petition was dismissed via the mailing of a decision on June 23, 2009, which indicated that requirements (1), (2), and (4) of 37 C.F.R. § 1.47(a) had been satisfied, and that it could not be determined if the third and fifth requirements have been satisfied, as conflicting information was presented as to Mr. Zhu's last known home address.

A renewed petition pursuant to 37 C.F.R. § 1.47(a) was filed on August 24, 2009, where Petitioner attempted to achieve joinder via the submission of a declaration that has been executed by Mr. Zhu, the formerly non-signing joint inventor. The renewed petition was dismissed via the mailing of a decision on September 9, 2009, which indicated that the declaration could not be accepted, as it contains non-initialed and non-dated changes by inventor Zhu.[1]

With this second renewed petition, Petitioner has submitted a one-month extension of time so as to make timely the submission, along with a declaration that has been properly executed by joint inventor Zhu.

In view of the joinder of the joint inventor, further consideration under 37 CFR § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. **This application need not be returned to this Office for further consideration under 37 CFR § 1.47(a).**

The 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.

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1 See 37 C.F.R. §1.52(c)(1) and MPEP § 605.04(a).

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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**IRVINE CA 92618**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Chu et al. | : | |
| Application No. 12/328,467 | : | ON PETITION |
| Filed: December 4, 2008 | : | |
| Attorney Docket No. JCLA28852 | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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MORRISTOWN NJ 07962

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JAN 07 2010

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|---|---|---|
| In re Application of | : | |
| SERBAN ET AL. | : | |
| Application No. 12/328,488 | : | DECISION ON PETITION |
| Filed: December 4, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. H0020564 | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(2), filed December 9, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102(c)(2) and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The application must be directed to a single invention that either: A) materially enhances the quality of the environment or B) that materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. If the disclosure is not clear on its face that the claimed

invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item no. 1 above for the reason as explained in more detail below.

This application has been classified (USPC 423/244.01) in an area that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not be eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified else where. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

The petition lacks item no. 4 above for the reason as explained in more detail below.

The instant petition fails to state the basis for the special status (i.e., whether the invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction). The petition must be accompanied by a statement by applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. As stated in section III of the Notice, applicant must provide such a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets that materiality standard.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Gay Ann Spahn at 571-272-8011.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1793 for action in its regular turn.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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| In re Application of | : | |
| SERBAN ET AL. | : | |
| Application No. 12/328,503 | : | DECISION ON PETITION |
| Filed: December 4, 2008 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. H0020563-01 | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(2), filed December 9, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102(c)(2) and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The application must be directed to a single invention that either: A) materially enhances the quality of the environment or B) that materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. If the disclosure is not clear on its face that the claimed

invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 5) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 6) The petition to make special must be filed electronically. 7) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 8) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item no. 1 above for the reason as explained in more detail below.

This application has been classified (USPC 502/337) in an area that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not be eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified else where. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

The petition lacks item no. 4 above for the reason as explained in more detail below.

The instant petition fails to state the basis for the special status (i.e., whether the invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction). The petition must be accompanied by a statement by applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. As stated in section III of the Notice, applicant must provide such a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets that materiality standard.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Gay Ann Spahn at 571-272-8011.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1793 for action in its regular turn.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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CHURCH STREET STATION
NEW YORK NY 10008-0770

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**OFFICE OF PETITIONS**

Applicant: Chunyong Wang
Appl. No.: 12/328,525
Filing Date: December 4, 2008
Title: METHOD AND APPARATUS FOR CONTROLLING MESSAGE TRAFFIC LICENSE
Attorney Docket No.: 21370/0210960-US0
Pub. No.: US 2009/0083750 A1
Pub. Date: March 26, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 31, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the priority date and the foreign application priority data was printed incorrectly.

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 prior data CN20071017896.X, December 5, 2007 was misprinted as CN20071017879.X, May 12, 2007 may be an Office error, but is not a material Office error under 37 CFR 1.221. The misprinting of the foreign priority data does not affect the understanding of the application. The misprint does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error to

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the priority data also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not usable as a reference date.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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JUL 3 1 2009

OFFICE OF PETITIONS

In re Application of
Geka, et al.
Application No. 12/328,538
Filed: December 4, 2008
Attorney Docket No.: **GEKA 8**

ON PETITION

This is a decision on the petition under 37 CFR 1.57 filed March 30, 2009.

The petition is **dismissed**.

The application was deposited on December 4, 2008. On December 29, 2008, the Office of Patent Application Processing mailed a Notice to File Corrected Application Papers ("Notice") stating that the application had been accorded a filing date of December 4, 2008, and required replacement drawings to be filed. The Notice also indicated that page 36 of the specification appeared to have been omitted from the application papers filed December 4, 2008. The notice allowed an extendable period for reply of two-months from its mailing date.

In response, on March 30, 2009, applicant filed the instant petition along with replacement drawings and a preliminary amendment requesting amendment to the specification to include text that was included on the omitted page 36 of the specification. Petitioner concedes that page 36 of the specification was omitted from the application papers filed December 4, 2009, but requests that the text from page 36 of the specification as contained in the preliminary amendment filed March 30, 2009, be considered as having been filed December 4, 2008. Petitioner asserts that the application contained, on filing, a priority claim under 37 CFR 1.55 to a Japanese application that contained the omitted page 36.

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporation by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57, applicant's are required to amend the application to include the inadvertently omitted material, and supply a copy of the prior-filed application and identify where the inadvertently omitted portion of the drawing can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a)(3) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application was determined to be entitled to a filing date, however. Accordingly, a petition is not required to amend the application pursuant to 37 CFR 1.57. The petition is dismissed, accordingly.

The petition fee of $400.00 will not be refunded since no error occurred in the processing of this application on the part of the U.S. Patent and Trademark Office.

The application is being directed to the Office of Patent Application Processing for further processing with a filing date of December 4, 2008.

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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2801 MERIDIAN STREET
BELLINGHAM WA 98225-2412

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Davis, et al. | : | |
| Application No. 12/328,548 | : | DECISION |
| Filed/Deposited: 4 December, 2008 | : | |
| Attorney Docket No. P216076 | : | |

This is a decision on the papers considered as a petition filed 16 January, 2009, seeking to have accorded a filing date of 4 December, 2008, for the above-identified application based upon a showing that the omitted drawing/figures were present in the prior-filed co-pending nonprovisional application to which this application claimed benefit (under 37 C.F.R. §1.78) on filing.

For the reasons stated herein, the petition is **DISMISSED**.

Application papers in the above-identified application were deposited on 4 December, 2008.

On 16 December, 2008, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because it had been deposited without drawing as required under 35 U.S.C. §113 (first sentence). The Office indicated that Petitioner could demonstrate on petition the presence of the drawings/figures by presentation of evidence of deposit (e.g., date-stamped receipt card, EFS Acknowledgement Receipt); or submit the drawings/figures and accept the date of submission as the filing date. The Office gave Petitioner two (2) months within which to reply.

On 16 January, 2009, Petitioner filed, *inter alia*, the instant petition with fee, (no valid preliminary amendment appears to have been filed) and 25 sheets of drawings, FIGS. 1-30, averred to be a copy from the parent of the previously omitted drawings FIGS. 1-30, from the parent/previously-filed Nonprovisional Application No. 10/489,642 (the '642 application), filed on 24 August, 2005, to which application a priority claim was made in the instant application.

Petitioner asserts that the drawing/figures were inadvertently omitted from the instant application; and points to the prior filed Application No. 10/489,642 (the '642 application), filed

on 24 August, 2005, and now seeks to obtain an incorporation by reference herein under the provisions of 37 C.F.R. §1.57(a). Petitioner appears to have filed no proper amendment under the rule.

Petitioner's arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method/process/composition claim. MPEP §601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113 (first sentence). The same practice has been followed in composition applications.

Thus, pursuant to §601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application.

The express incorporation by reference entitled Petitioner to file an amendment under 37 C.F.R. §1.57(b) to add the subject matter of the non-provisional application into the disclosure of this application. Please note that no petition is required for that purpose and that the amendment must comply with 37 C.F.R. §1.57(b) and 37 C.F.R. §1.121 (*See*: MPEP §201.06(c)(IV).) Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

The Petition fee is waived and is refunded *via* credit card. Should Petitioner later find that a petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

Petitioner should file promptly the required preliminary amendment.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing (OPAP) for:

- **correction of the filing date to 4 December, 2008**;
- **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **issuance of a filing receipt.**

Telephone inquiries concerning this matter should be directed to John J Gillon, Jr., attorney, at (571) 272-3214. Inquiries regarding initial patent application processing should be directed to OPAP at (703) 308-9210.

Anthony Knight
Supervisor
Office of Petitions

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NOV 02 2009

Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

| | | |
|---|---|---|
| In re application of<br>Seiichi Takasaki et al.<br>Application No. 12/328,575<br>Filed: December 4, 2008<br>For: ELECTRIC 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 October 13, 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 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).

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In light of the preliminary amendment filed October 13, 2009 with the petition, the request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision as soon as any pre-exam processing has been completed.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 11/1/09

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8911 N. CAPITAL OF TEXAS HWY.
SUITE 2110
AUSTIN TX 78759

MAIL

MAY 21 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
BELL, DAVID, et al.
Serial No.: 12/328,617
Filed: December 4, 2009

Title: **COMBINING TIME AND GPS LOCATIONS TO TRIGGER MESSAGE ALERTS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on December 4, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete. A "Notice to File Corrected Application Papers" was mailed on December 15, 2008.

Therefore, the petition is denied because the application was not complete at the time of filing as per item 3 above. The application will be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
SUITE 2300
LOS ANGELES CA 90017

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SEP 09 2009

**OFFICE OF PETITIONS**

In re Application of :
Lester F. Ludwig :
Application No. 12/328,713 : ON PETITION
Filed: December 4, 2008 :
Attorney Docket Number: **2152-3058** :

This is a decision on the petition filed August 4, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on February 17, 2009, for failure to timely reply to the Notice to File Missing Parts, mailed December 16, 2008, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The filing of the response to Notice to File Missing Parts mailed December 16, 2008 is acknowledged.

All other requirements having been met, this matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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**660 S. FIGUEROA STREET**
**Suite 2300**
**LOS ANGELES CA 90017**

| | | |
|---|---|---|
| In re Application of | : | |
| Lester F. LUDWIG | : | |
| Application No. 12/328,716 | : | DECISION ON PETITION |
| Filed: December 04, 2008 | : | |
| Attorney Docket No. 2152-3059 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 04, 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 mailed December 23, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 24, 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 the required fees; (2) the petition fee of $810.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of December 23, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 9/14/09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 12/328788 Patent No.: 7572973

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D62-B**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
**703-756-1591**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

**Comments:** _____

Nam Nguyen
**SPE**

1795
**Art Unit**

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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APR 28 2009

**OFFICE OF PETITIONS**

In re Application of Aten et al. :
Application No. 12/328,811 :
Filing Date: December 5, 2008 :
Attorney Docket No. FL0454USNA :

Decision on Petition

This is a decision in response to the petition filed January 19, 2009, which requests the application be accorded a filing date of December 5, 2008, and requests entry of the drawings filed January 19, 2009. As will be discussed in this decision, the petition has been treated as a petition under 37 CFR 1.53.

The petition is **granted** to the extent indicated herein.

Procedural History:

On December 5, 2008, the application was inadvertently filed without drawings.

On December 19, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application." The Notice stated drawings did not appear to be part of the application as filed and that a filing date would be accorded upon the submission of drawings.

On January 19, 2009, petitioner filed the instant petition, and a petition fee of $400. Petitioner requests the application include the inadvertently omitted drawings on the basis that the application as filed contained a proper priority claim under 37 CFR 1.55 or 1.78. Petitioner has not filed an amendment to add the drawings.

Discussion:

One must always file an amendment in order to add material pursuant to 37 CFR 1.57(a). However, a petition under 37 CFR 1.57 and the $400 fee is only necessary if the application is not entitled to a filing date absent the missing material.

The Office has chosen to initially treat the petition as a petition under 37 CFR 1.53(e) in order to determine if the application should have been accorded a filing date without the drawings. If the

application should have been accorded a filing date without the drawings, then a petition under 37 CFR 1.57 is unnecessary and the $400 fee is refundable.

A review of the application papers filed December 5, 2008, indicates the papers included at least one process claim. MPEP 601.01(f) states, with emphasis added,

> 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).

Pursuant to MPEP 601.01(f), the Office should not have required drawings in order to accord the application a filing date. Instead, the Office should have granted the application a filing date of December 5, 2008, and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in under the section titled, "Application Entitled to a Filing Date," in MPEP 601.01(g), applicant may submit an *amendment* to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a):

> [If the] 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.

Since the application is entitled to a filing date without the drawings, an amendment pursuant to 37 CFR 1.57(a) does not need to be accompanied by a petition under 37 CFR 1.57 and the petition fee of $400 has been refunded to petitioner's deposit account.

As previously stated, an amendment is necessary to add omitted material pursuant to 37 CFR 1.57(a). An amendment has not been filed. Petitioner should promptly file an amendment pursuant to 37 CFR 1.57(a) to add the missing drawings or an amendment cancelling all references in the specification to the drawings. Petitioner is reminded that an amendment pursuant to 37 CFR 1.57(a) must comply with the requirements of 37 CFR 1.121. For example, per 37 CFR 1.121(d), any new drawings added to an application must include in the top margin the label "New Sheet."

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing for:

- **correction of the filing date to December 5, 2008**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt**.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Aten, et al | : | |
| Application No. 12/328,816 | : | ON PETITION |
| Deposited: December 5, 2008 | : | |
| Attorney Docket No. FL0457USNA | : | |

This is in response to the "**PETITION TO INCORPORATE BY REFERENCE (37 CFR 1.57(A)) RESPONSE TO NOTICE OF INCOMPLETE NON PROVISIONAL APPLICATION**,"" filed January 19, 2009, requesting that the above-referenced application be accorded a filing date of December 5, 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 December 5, 2008. However, on December 22, 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 and an oath/declaration was missing. In response, applicants timely filed this petition. Applicants request that the application be amended to include the inadvertently omitted drawing on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55 or 1.78.

Petitioners' arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one process 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 paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

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 will be considered by the examiner.

To the extent the instant petition requests a filing date of December 5, 2008 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded.

Pursuant to this decision, the application will be referred to Office of Patent Application Processing for:

- **correction of the filing date to** December 5, 2008;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

Telephone inquiries concerning this matter may be directed to the Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/328,864 | 12/05/2008 | STEVEN J. DEANGELES | 3850.001 | 7728 |

82331 7590 02/23/2010
Docket Clerk
1000 JORIE BOULEVARD SUITE 144
OAK BROOK, IL 60523

| EXAMINER |
|---|
| GONZALEZ, JULIO C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2839 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/23/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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| | | |
|---|---|---|
| In re Application of | : | |
| Steven J. DEANGELES | : | DECISION ON PETITION |
| Application No. 12/328,864 | : | TO MAKE SPECIAL UNDER |
| Filed: 05 December 2008 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 3850.001 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 31 December 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2839 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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**RESTON, VA 20191**

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**OFFICE OF PETITIONS**

In re Application of
Ryu Hirata et al
Application No. 12/328,997
Filed: December 5, 2008
Attorney Docket No. P35724

DECISION ON PETITION

This is a decision on the petition, filed September 15, 2009, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Missing Parts mailed December 24, 2008. A Notice of Abandonment was mailed on September 1, 2009.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return receipt which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 19, 2009 of, *inter alia*, an executed declaration/surcharge fee and IDS form PTO-1449. A copy of the previously submitted reply accompanies the petition. Additionally, Office finance records show that the surcharge fee of $130.00 was paid on February 19, 2009.

The reply acknowledged as having been received in the USPTO on February 19, 2009 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on February 19, 2009.

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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**MINNEAPOLIS, MN 55402**

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OFFICE OF PETITIONS

In re Application of :

**Anthony L. DEAR** :
Application No. 12/329,035 :
Filed: December 5, 2008 :
Attorney Docket No. **72318-0101** :

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 4, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Matthew J. Booth, the sole attorney of record. Matthew J. Booth has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **ANTHONY LESLIE DEAR**
**C/O FORRESTER**
**52 BOUNDS GREEN ROAD**
**LONDON ENGLAND, UK N11 2EY**