UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ROSS PRODUCTS DIVISION
OF ABBOTT LABORATORIES
DEPARTMENT 108140-DS/1
625 CLEVELAND AVENUE
COLUMBUS OH 43215-1724

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Clinger :
Application No. 61/015,312 : DECISION
Filed 20 December, 2007 :
Attorney Docket No. 9242USL1 :

This is a decision on the petitions, filed on 24 October, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts (provisional coversheet and surcharge) mailed on 8 February, 2008, with reply due absent extension of time on or before 8 April, 2008.

The instant application went abandoned by operation of law after midnight 8 April, 2008.

The Office mailed the Notice of Abandonment on 20 October, 2008.

On 24 October, 2008, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b) and averred unintentional delay, a reply in the form of a provisional coversheet and surcharge, and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

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

The instant application is released to the Office of Patent Application Processing 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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625 CLEVELAND AVENUE
COLUMBUS OH 43215-1724

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NOV 2 1 2008

In re Application of :
Christine L. Clinger :
Application No. 61/015,318 : ON PETITION
Filed: December 20, 2007 :
Attorney Docket No. 9244USL1 :

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

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed February 8, 2008, which set a shortened two (2) month period for reply. No response was received within the allowable period and the application became abandoned on April 9, 2008. A Notice of Abandonment was mailed October 16, 2008.

The response to the Notice to File Missing Parts of Provisional Application filed October 24, 2008, is noted and made of record.

A provisional application may be revived so as to be pending for a period no longer than twelve months from its filing date. See 35 USC 11(b)(5). This application is revived until midnight December 20, 2008, when it went abandoned as a matter of law.

The application is being directed 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

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DIW Apr-08

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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APR 2 4 2008

In re Application of	:	
Shen et al.	:	
Application Number: 61/015580	:	ON PETITION
Filed: 12/20/2007	:	
Attorney Docket Number:	:	
89188.0266	:	

This is a decision on the "PETITION REQUESTING GRANT OF ORIGINAL FILING DATE UNDER 37 C.F.R. § 1.53(e)," filed on March 26, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of December 20, 2007.

The petition is **GRANTED**.

The application was filed on December 20, 2007, without drawings. Accordingly, on February 11, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on March 26, 2008, the subject petition was filed. Petitioners assert that that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a

> drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

The arguments in the petition will be construed to mean that petitioner's counsel is asserting that drawings are not necessary for a filing date in this application. Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on February 11, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of December 20, 2007, without drawings as a part of the original disclosure. The petition fee will be refunded to counsel.

The two (2) sheets of drawings filed with the present petition will not be processed as part of the original application papers, but will be retained in the application file.

As the petition was necessitated by an Office error, the petition fee is unnecessary and will be credited to counsel's deposit account.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to December 20, 2007, and for an indication in Office records that no (0) drawings were present on filing.

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

/DWood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/016,077	12/21/2007	Scott Bergemann	sa	9165

73905 7590 02/13/2008
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606

EXAMINER	
ART UNIT	PAPER NUMBER

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
61/016077	12/21/2007	Scott Bergmann	SA

CONFIRMATION NO.
9165

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
SOUTH WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606

Date Mailed: February 13, 2008

NOTICE OF IMPROPER LETTER OF EXPRESS ABANDONMENT

The letter of express abandonment under 37 CFR 1.138 dated January 14, 2008, is improper for reason(s) indicated below:

☐ 1. The letter of express abandonment was not signed by a party authorized under 37 CFR 1.33(b)(1), (b)(3), or (b)(4). A registered practitioner, not of record, who acts in a representative capacity under 37 CFR 1.34 when filing a continuing application, may only expressly abandon the prior application as of the filing date granted to the continuing application. See 37 CFR 1.138(b).

☐ 2. The letter of express abandonment was not filed prior to the payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing a petition under 37 CFR 1.313 to withdraw this application from issue.

☐ 3. The letter of express abandonment was not filed prior to the issuance of the patent.

☐ 4. The letter of express abandonment was not filed prior to the abandonment of the application. A notice of abandonment was mailed to the applicant on _____.

Inquiries regarding this communication should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Rev. 10/01

UNITED STATES PATENT AND TRADEMARK OFFICE

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GENENTECH INC
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
Suzie J. Scales :
Application No. 61/017,232 : DECISION ON PETITION
Filed: December 28, 2007 :
Attorney Docket No. PR4137 :

This is a decision on the petition under 37 CFR 1.52(c), filed March 14, 2008, which is being treated as a request that the "Notice to File Missing Parts of Nonprovisional Application" mailed October 13, 2006 be withdrawn.

The petition is **DISMISSED**.

The application was filed on December 28, 2007. However, on February 13, 2008, the Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Provisional Application". The Notice informed applicant that the application had been accorded a filing date. However Figures 3C-3L and 4B as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that Figures 3C-3L and 4B were not missing on December 28, 2007. Instead, the drawing were present, but were inconsistently labeled.

It is obvious from the petition that no drawings were actually missing on December 28, 2007. Rather, the drawing sheets containing Figures 3C-3L and 4B were simply mislabeled as a result of applicant's filing error. However, the "Notice of

Omitted Item(s) in a Provisional Application" mailed February 13, 2008 was correct in stating that Figures 3C-3L and 4B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will not be refunded.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAN 30 2009

OFFICE OF PETITIONS

ADELI & TOLLEN, LLP
1875 CENTURY PARK EAST, SUITE 1360
LOS ANGELES, CA 90067

In re Application of :
Gregory Davis, et al. :
Application No. 61/017,528 : ON PETITION
Filed: December 28, 2007 :
Attorney Docket No. TBUL.P0113P :

This is a decision on the petition under 37 CFR 1.137(b), filed by October 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed January 10, 2008. The notice set a two-month period to respond and required (1) the basic filing fee; (2) a provisional application cover sheet under 37 CFR 1.51(c)(1), or an Application Data Sheet (ADS) identifying either the city and state or city and foreign country of the residence of each inventor; and (3) the surcharge as set forth in 37 CFR 1.16(g) of $25. A Notice of Abandonment was mailed on September 18, 2008. On October 8, 2008, the present petition was filed.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Ali Makoui appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $110 filing fee, an ADS and the $25 surcharge; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1]. Accordingly, the failure to timely reply to the Notice of January 10, 2008 is accepted as being unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $$1,175 fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

Subject to the provisions of 35 U.S.C. § 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
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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WARREN A. SKLAR (SOER)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND OH 44115

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OCT 31 2008

OFFICE OF PETITIONS

In re Application of :
Pontus P. Jarenskog :
Application No. 61/018,098 : DECISION ON PETITION
Filed: December 31, 2007 :
Attorney Docket No. PS07 1114US1 :

This is a decision on the communication filed January 11, 2008 which is being treated as a petition under 37 CFR 1.182, to change the name of inventor "Frans P. Jarenskog" to – Pontus Jarenskog --.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. In this instance, the fee required by law is $400. The petition in the above identified application was not accompanied by payment of the required fee. Therefore no consideration on the merits can be given on petition until the required fee is received.

Further, the request could not be granted because the petitioner has not provided a copy of the procedure whereby the change of name was effected.

In view of the above, the petition under § 1.182 cannot be granted at this time.

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 April Wise at (571) 272-1642.

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

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Han et al. :
Application No. 61/018,138 : DECISION ON PETITION
Filed: December 31, 2007 :
Atty Docket No. P07816US00 - PHI 2336P :

This is a decision on the "PETITION TO ESTABLISH THAT DRAWINGS ARE NOT NECESSARY UNDER 35 U.S.C. § 113 FOR A FILING DATE," filed April 17, 2008, requesting that the above-identified application be accorded a filing date of December 31, 2007, instead of the present filing date of April 9, 2008.

The above-identified application was deposited on December 31, 2007. On February 15, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the omitted drawings.

On April 9, 2008, petitioners submitted one drawing sheet in response to the Notice of Incomplete Provisional Application. Thereafter, the Office accorded the above-identified application a filing date of April 9, 2008, the date petitioners submitted the drawing.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains 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).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was mailed in error and is hereby withdrawn.

The petition is **granted**. The application will be accorded a filing date of December 31, 2007, without any drawings as a part of the original disclosure. The petition fee of $400.00 is unnecessary and will be refunded to the Deposit Account.

This matter is being referred to the Office of Patent Application Processing to correct the filing date to December 31, 2007, and an indication in the Office records that zero "0" sheets of drawings were present on filing.

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

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RANDALL LASHINSKI
675 PLEASANT AVE.
SANTA ROSA, CA 95403

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DEC 29 2008

OFFICE OF PETITIONS

In re Application of :
Gordon Bradley Bishop :
Application No. 61/018,448 : ON PETITION
Filed: January 1, 2008 :
Attorney Docket No. :

This is a decision on the petition, filed November 25, 2008 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

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

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

The $25 Surcharge was received with the petition on November 25, 2008. However, the provisional application cover sheet under 37 CFR 1.51(c)(1), which may be an application data sheet (37 CFR 1.76) has not been received. The $810 Petition Fee Under 37 CFR 1.137(b) has not been received. This petition can not be revive until the provisional application cover sheet and the $810 Petition Fee are received.

The signature on the petition filed November 25, 2008 is not accepted. 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

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

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

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

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
www.uspto.gov

Paper No.

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JUN 23 2008

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of :
Nurit Perlman et al. : DECISION ON PETITION
Application No. 61/019,373 : PURSUANT TO
Filed: January 7, 2008 : 37 C.F.R. § 1.182
Attorney Docket No. 01662/A491P2 :
Title: CRYSTALLINE FORM OF :
SITAGLIPTIN PHOSPHATE :

This is a decision on the "PETITION UNDER 37 C.F.R. §1.53(E)" filed April 18, 2008, requesting that this application be accorded a filing date of January 7, 2008. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.182.

Application papers in the above-identified application were deposited on January 7, 2008. However, on February 21, 2008, the Office of Initial Patent Examination Division mailed Applicant a "Notice of Incomplete Provisional Application" (notice), notifying Applicant that the application papers had not been accorded a filing date because the application had been deposited without drawings, and that a filing date would be accorded upon the deposit of the same.

In response, Applicant timely filed this petition. Petitioner's arguments and evidence have been considered. Petitioner has noted that Section 601.01(f) of the MPEP provides, *in pertinent part*:

> 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 37 C.F.R. § 601.01(f), a drawing is not considered essential for a filing date in an application that is directed towards a composition. **It is noted that this**

application is directed towards a composition. Thus, the application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Provisional Application.

Given the basis for granting this petition, no petition fee is required. Consequently, the petition fee will be refunded to Petitioner's Deposit Account in due course.

To the extent the present petition requests a filing date of January 7, 2008 with no drawings present in the application, the petition is **GRANTED**. The notice of February 21, 2008 is hereby **VACATED**.

The Office of Patent Application Processing (OPAP) will be advised of this decision. Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to January 7, 2008**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing,** and;
- **for issuance of a filing receipt**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Randall J. Ottinger	:	
Application No. 61/019,385	:	DECISION ON PETITION
Filed: January 7, 2008	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 5, 2008.

The request is **APPROVED**.

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

The request was signed by Christopher Schenck 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 Randall J. Ottinger 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: **Randall J. Ottinger c/o**
Wealth Impact Network, Inc.
1841 West Mercer Way
Mercer Island, WA 98040

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/019,385	01/07/2008	Randall J. Ottinger	WIN-001PR

CONFIRMATION NO. 2376

22832
K&L Gates LLP
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON, MA 02111-2950

POWER OF ATTORNEY NOTICE

OC000000032572669

Date Mailed: 10/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2008.

- 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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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET NW
EAST LOBBY: SUITE 700
WASHINGTON DC 20007-5201

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Siddiqui, et al. :
Application No. 61/019,429 : DECISION ON PETITION
Filed: January 7, 2008 :
Attorney Docket No. 204694-00167 :

This is a decision on the "PETITION ASSERTING THAT DRAWINGS ARE NOT NECESSARY FOR A FILING DATE UNDER MPEP SECTION 601.01(F) AND REQUEST FOR EXPEDITED HANDLING OF PETITION UNDER 37 CFR 1.182", filed February 4, 2008, to accord the above-identified application a filing date of January 7, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

The application was deposited on January 7, 2008. However, on February 4, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner states that the application should be accorded the January 7, 2008, filing date without the drawings, because drawings are not necessary for an understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a

drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the name of all the inventors.

The instant provisional application contains disclosure for which a drawings is usually not considered essential for a filing date 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 view of the above, the "Notice of Incomplete Provisional Application" mailed January 22, 2008, was mailed in error and is hereby **withdrawn**.

The Office should have instead mailed a Notice of Omitted Items in a Provisional Application.

As the instant petition was due to USPTO error, the petition fee of $400 for the petition under 37 CFR 1.53 has been refunded to Deposit Account No. 50-1710.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of January 7, 2008, for indication on the file wrapper label to show that "0" sheets of drawings were present on filing, and for mailing of a "Notice of Omitted Items in a Provisional Application".

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No.

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE,
ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
Charles Dinkler :
Application No. 61/020,459 : DECISION ON PETITION
Filed: January 11, 2008 :
Atty Docket No. DIN 0002 MA/ :
37443.4 :

This is a decision on "PETITION UNDER 37 CFR 1.153(c)" filed February 7, 2008, which is properly treated as a petition under 37 CFR §1.182, requesting, in effect, that the "Notice of Omitted Items in a Nonprovisional Application" mailed January 25, 2008 be withdrawn.

Application papers in the above-identified application were filed on January 11, 2008. However, on January 25, 2008, the Office mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figure 6B, 6C described in the specification appeared to have been omitted.

In reply, applicant timely filed the instant petition, asserting that the drawing figures were present in the application as filed. However, applicant discloses that the labeling of Figs. 6A-6C were inadvertently omitted at the time of filing. Accompanying the petition was one replacement sheet to renumber the incorrectly labeled figure 6.

It is obvious from the petition (and a review of the application file) that no drawing was actually missing on January 11, 2008.

Rather, the drawing of Figure 6 was simply mislabelled as a result of applicant's filing error. However, the "Notice of Omitted Item(s)" mailed January 25, 2008, was correct in stating that Figure 6A-6C described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition is DISMISSED to the extent indicated herein.

The petition fee is required, since the petition was not necessary to correct any PTO error.

This application is being forwarded to the Office of Patent Application Processing for processing with a filing date of January 11, 2008, using the drawings received on that date and the 1 replacement sheet of drawings filed on February 7, 2008 to correct the error in labeling of figure 6.

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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Paper No.

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE,
ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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JAN 06 2009
OFFICE OF PETITIONS

In re Application of :
Charles Dinkler :
Application No. 61/020,459 :
Filed: January 11, 2008 :
Atty Docket No. DIN 0002 MA/ :
37443.4 :

CORRECTED[1]
DECISION ON PETITION

This is a decision on "PETITION UNDER 37 CFR 1.153(c)" filed February 7, 2008, which is properly treated as a petition under 37 CFR §1.182, requesting, in effect, that the "Notice of Omitted Items in a Provisional Application" mailed January 25, 2008 be withdrawn.

Application papers in the above-identified application were filed on January 11, 2008. However, on January 25, 2008, the Office mailed applicant a "Notice of Omitted Item(s) in a Provisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figure 6B, 6C described in the specification appeared to have been omitted.

In reply, applicant timely filed the instant petition, asserting that the drawing figures were present in the application as filed. However, applicant discloses that the labeling of Figs. 6A-6C were inadvertently omitted at the time of filing. Accompanying the petition was one replacement sheet to renumber the incorrectly labeled figure 6.

---

[1] This decision is being mailed to correct the decision mailed June 12, 2008 to the extent that the decision treated this petition as one in a nonprovisional application and thus, erroneously indicated that this provisional application would be amended to enter a replacement sheet to renumber the incorrectly labeled figure 6.

It is obvious from the petition (and a review of the application file) that no drawing was actually missing on January 11, 2008. Rather, the drawing of Figure 6 was simply mislabelled as a result of applicant's filing error. However, the "Notice of Omitted Item(s)" mailed January 25, 2008, was correct in stating that Figure 6A-6C described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition is DISMISSED.

The petition fee is required, since the petition was not necessary to correct any PTO error.

Moreover, 37 CFR 1.53(c) provides that:

> The filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.

Pursuant to 37 CFR 1.53(c), this provisional application cannot be amended to include the replacement sheet of drawings submitted on petition.

No further action appears to be necessary in this application. The application is being returned to the Office of Patent Application Processing with a filing date of January 11, 2008, using the application papers, including drawings, received on that date. The 1 replacement sheet of drawings filed on February 7, 2008 to correct the error in labeling of figure 6 will not be entered.

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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ELLIOT L. FRANK, ESQ.
MORGAN & FINNEGAN, LLP
THREE WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
David Paige :
Application No.61/020,644 : DECISION ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. 4982-0004 :

This is a decision on the request filed March 3, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $210, submitted on January 11, 2008, has been credited to petitioner's deposit account no. 13-4500.

As no further action will be taken in this application, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application as requested in the request submitted on March 3, 2008.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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FEB 02 2009

OFFICE OF PETITIONS

In re Application of :
Travis :
Application No. 61/020,704 : ON PETITION
Filed: January 11, 2008 :
Attorney Docket No. 2093.0005P :
For: SUPPORT STRUCTURES AND
METHODS OF USING THE SAME

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2009, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed April 7, 2008, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on June 8, 2008. A Notice of Abandonment was mailed on December 10, 2008.

Applicant has submitted a proper reply to the April 7, 2008 Notice in the form of the basic filng fee and surcharge for its late filing, a proper statement of the unintentional nature of the delay in responding to the April 7, 2008 Notice, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROSETTA GENOMICS LTD.
ATTENTION: RAVIT IMBAR
10 PLAUT STREET
ROHOVOT 76706 IL ISRAEL

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Ranit Aharonov et al :
Application No. 61/021,346 : DECISION ON PETITION
Filed: January 16, 2008 :
Attorney Docket No. 87-Prov :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed February 13, 2008, requesting refund of the filing fee for the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (5) and (6) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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

DENNIS CLARKE
7422 OLD MAPLE SQUARE
MCCLEAN, VA 22102

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Yuntao Wu :
Application No. 61/021,630 : ON PETITION
Filed: January 17, 2008 :
Attorney Docket No. Wupv01 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 23, 2008, to revive the above-identified application.

The petition is dismissed because it lacks the required petition fee pursuant to 37 CFR 1.17(m).

Effective October 2, 2008, certain U.S. Patent and Trademark Office fees were increased. The small entity fee for a petition to revive an unintentionally abandoned application was increased to $810 and the statutory basic filing fee was increased to $110. Petitioner submitted $770 for the petition fee, $105 for the filing fee and $25 for the surcharge, using a credit card. It is noted that there is no authorization found in the papers filed December 23, 2008 to charge any fee deficiency. Since any fee paid on or after October 2, 2008, must be paid at the revised amount, petitioner must submit a fee deficiency of $45.

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 the $40 petition fee deficiency and a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH VA 23462

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AUG 18 2008

In re Application of :
Stephen E. Plotnick :
Application No. 61/021,666 : ON PETITION
Filed: January 17, 2008 :
Attorney Docket No. 308967.0013 :

This is a decision on the petition under 37 CFR 1.53(e) filed on July 15, 2008, requesting that the Office accord the above-identified provisional application a filing date of January 17, 2008.

On January 17, 2008, applicants deposited the above-identified provisional application without drawings. On May 15, 2008, the Office mailed a Notice of Incomplete Provisional Application, indicating that the application had not been accorded a filing date because the application had been deposited without drawings, and stating that the filing date would be the date of receipt of the omitted drawings.

On petition, applicants explain:

> The drawing was inadvertently omitted as the result of a clerical error in assembling the above-identified application for electronic scanning and filing. Applicants respectfully submit, however, that the inadvertently omitted drawing is not necessary for understanding of the subject matter sought to be patented, *(see* MPEP § 601.01 (f)), and that the written description of the invention (46 pages in length) is more than sufficient to satisfy the requirements under 35 U.S.C. § 112. In other words, the written description is sufficiently detailed, clear and concise that a person skilled in the art could make and use the disclosed invention. In view of the foregoing, Applicants respectfully request that the January 17, 2008, filing date be accorded to this provisional application.

Petition, 07/15/08, p. 1

A review of the provisional application papers deposited on January 17, 2008, reveals that the application contains method claims. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application may be accorded a filing date of January 17, 2008, without any drawings.

Accordingly, the petition is **granted** to the extent indicated above.

The $400.00 petition fee is unnecessary and will be refunded to the Deposit Account.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of January 17, 2008, with "0" sheets of drawings, and to mail a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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SAWYER LAW GROUP LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO CA 94303

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FEB 02 2009

OFFICE OF PETITIONS

In re Application of :
Seeger, et al. :
Application No. 61/022,405 : ON PETITION
Filed: January 21, 2008 :
Attorney Docket No. IVS121/4485PR :
For: AUTOMATIC OFFSET NULLING FOR INTEGRATED MICROMACHINED SENSORS

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application, mailed February 26, 2008, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 27, 2008. A Notice of Abandonment was mailed on November 5, 2008.

Applicants have submitted a proper reply to the February 26, 2008 Notice in the form of a provisional application cover sheet and $25.00 surcharge for its late filing, a proper statement of the unintentional nature of the delay in responding to the February 26, 2008 Notice, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further processing.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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LAW OFFICES OF JERRY A. SCHULMAN
1S376 SUMMIT AVENUE
COURT C
OAKBROOK TERRACE IL 60181

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DEC 19 2008

In re Application of
Akahoski
Application No. 61/022,504
Filed: January 21, 2008
Attorney Docket No. 10007-2-115
For: INFUSION SLEEVE WITH FLOW CONTROL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2008 (certificate of mailing date November 7, 2008), to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application, mailed January 29, 2008, which set an extendable two month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on March 30, 2008. A Notice of Abandonment was mailed on October 7, 2008.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

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

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

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

The instant petition does not satisfy requirement (1) above.

Petitioner has not submitted the full fees that were required by the January 29, 2008 Notice. The Notice required payment of the small entity basic filing fee and the small entity surcharge. On October 2, 2008, a revised fee schedule became effective. Any fee paid on or after October 2, 2008 must be paid at the revised fee schedule amount. The late provisional filing fee surcharge remains $50.00. However, The provisional application filing fee became $110.00. Petitioner paid only $105.00, which was the amount due in the previous fee schedule.

The reply in a reconsideration petition under 37 CFR 1.137(b) should be the $5.00 balance owed.

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

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

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

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

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

Shirene Willis Brantley

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

Paper No.

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

COPY MAILED

DEC 10 2008

In re Application of :
Stephen Carter, Pearl Zhu :
Kanu Paten and Diane Kozwich : ON PETITION
Application No. 61/022,708 :
Filed: January 22, 2008 :
Atty Docket No. 3326/101 :

This is in response to the "PETITION FOR CHANGE IN NAME OF INVENTOR," filed June 12, 2008.

For the reasons stated herein, the petition is **dismissed**.

Any request for reconsideration pursuant to § 1.182 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under §1.136(a) are not permitted.

Petitioner states that inventors' names were incorrectly filed with the PTO. Specifically, petitioner states that Pearl Zhu should be Zhen Zhu and Kanu Paten should be Kanu Patel. Petitioner's statement does not indicate any legal change in inventor Zhu's name and does not state whether the error in inventor Patel's name is merely a spelling error. Most importantly, the petition includes only a $50 petition fee.

With respect to inventor Patel's name, petitioner is advised that when a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any

subsequently filed application data sheet. If the error with respect to inventor Patel's name is simply a spelling error (and his name or what was intended to be filed as his name did not change), only a supplemental application data sheet is required. See MPEP § 605.04(b). (Otherwise, as to inventor Patel, the rules discussed below with respect to inventor Zhu apply).

With respect to inventor Zhu's name, except for a correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee. The fee for consideration of a petition under 37 CFR 1.182 fee is $400.

Likewise, MPEP 605.04(c) provides that:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

It is concluded that the error in inventor Zhu's name does not appear to be due to a typographical or transliteration error. The petition includes affidavits of each inventor signed by the inventor setting forth both names and the "procedure by which the name change was effected." For consideration of correction of inventor Zhu's name (and if applicable, of inventor Patel's name), whether the correction is required due to a legal name change or not, the petition must include the required petition fee of $400. As petitioner has not submitted the fee, the petition must be dismissed.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Stephen Carter, Zhen Zhu :
Kanu Patel and Diane Kozwich : ON PETITION
Application No. 61/022,708 :
Filed: January 22, 2008 :
Atty Docket No. 3326/101 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION FOR CHANGE IN NAME OF INVENTORS," filed January 15, 2009.

The renewed petition is **GRANTED**. The names of two of the inventors have been changed to Zhen Zhu and Kanu Patel, as requested. A copy of a filing receipt reflecting this change is enclosed.

Petitioner restates that the inventors' names were incorrectly filed with the PTO. Specifically, Pearl Zhu should be Zhen Zhu and Kanu Paten should be Kanu Patel.

The initial petition included affidavits of each inventor signed by the inventor setting forth both names and the "procedure by which the name change was effected." It is noted that the procedure by which the name change was effected was not clear by these affidavits.

On renewed petition, Petitioner clarifies that there has been no legal change in inventor Zhu's name, but rather Pearl Zhu is a nickname. Likewise, Petitioner clarifies that the error in inventor Patel's name is merely a spelling error. In addition, the petition now includes the required $400 petition fee.

Petitioner has advised us of the spelling error in inventor Patel's name and has provided a supplemental application data to correct that error.

With respect to inventor Zhu, this petition is treated under 37 CFR 1.182 as a request for correction in the name of the inventor, accompanied by the appropriate petition fee.

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

Nancy Johnson
Senior 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
61/022,708	01/22/2008		105	3326/101		

CONFIRMATION NO. 7179

CORRECTED FILING RECEIPT

2101
Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Date Mailed: 09/23/2009

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Stephen Carter, Andover, MA;
Zhen Zhu, Tewksbury, MA;
Kanu Patel, Londonderry, NH;
Diane Kozwich, Nottingham, NH;

Power of Attorney: The patent practitioners associated with Customer Number 02101

If Required, Foreign Filing License Granted: 02/22/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/022,708**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods and Compositions for Topical Treatment of Wounds and Inflammation

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing

of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of

State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara, CA 95054

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Joseph Chen, et. al. :
Application No. 61/022,788 : DECISION ON PETITION
Filed: January 22, 2008 :
Attorney Docket No. GeoSpot-05P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed February 25, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $135 for pages in excess of 100 pages, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Charles R. Wesley
P. O. Box 8118
Akron OH 44320

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of
Wesley
Application No. 61/022,820
Filed: January 23, 2008
Attorney Docket No. N/A
For: THROWAWAY HOUSEHOLD GREASE CANISTER

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 15, 2009, to withdraw the holding of abandonment.

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

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

A Notice to File Missing Parts of Provisional Application, mailed March 27, 2008, required applicant to submit a provisional application cover sheet, which may be an application data sheet (ADS), that identifies the city and state, or city and foreign country, of the residence of each inventor and a $25.00 surcharge for late submission of the cover sheet. On April 9, 2008, the Office received a check for $25.00. On April 18, 2008, the Office mailed a Notice of Incomplete Reply because the Office had no record of receiving a provisional application cover sheet or an ADS. This application became abandoned on May 28, 2008. A Notice of Abandonment was mailed on December 1, 2008.

Petitioner requests withdrawal of the holding of abandonment because applicant purportedly contacted an unidentified Office employee after receiving the March 27, 2008 Notice and informed him/her that he believed that he had fulfilled the Office's requirements when he electronically filed the provisional application on January 23, 2008.

Applicant is reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). The March 27, 2008 Notice required applicant to submit a provisional application cover sheet or ADS that identifies the city and state, or city and foreign country, of the residence of each inventor. **Applicant has yet to provide this information.**

Applicant is informed that a correspondence address provided when the application was filed is not viewed as the same as the city and state, or city and foreign country, of the residence of each inventor. The city and state, or city and foreign country, of the residence of each inventor must be clearly identified.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Applicant requests information regarding what to do to "...get a Utility Patent for my invention." Applicant is informed that the first step is filing a nonprovisional patent application. A provisional application expires 12 months after it is filed. A nonprovisional patent application claiming benefit of a previously filed provisional application must be filed within 12 months of the filing date of the provisional application. It does not appear that applicant filed a nonprovisional patent application claiming benefit of the present provisional application prior to or on January 23, 2009. As a result, applicant may file a nonprovisional patent application for the above-identified invention, but it will **not** receive the benefit of the provisional application's January 23, 2008 filing date.

Applicant may wish to contact the Inventors Assistance Center at 1-800-786-9199 regarding the procedure to file a nonprovisional patent application.

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

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

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

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

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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

SCHOX PLC
730 Florida Street #2
San Francisco CA 94110

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of :
Connor :
Application No. 61/023,016 : ON PETITION
Deposited: January 23, 2008 :
Attorney Docket No. RUBI-P01 :
For: METHOD OF OPTIMIZING INSTRUCTION

This is a decision on the petition filed April 1, 2008, to accord a filing date of January 23, 2008 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

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

The application was deposited on January 23, 2008. However, on February 1, 2008, the Office of Initial Patent Examination mailed a "Notice of Incomplete Provisional Application" requiring drawings of applicant's invention and stating that the filing date of the application would be the date of receipt of the omitted drawing(s). It is noted that the specification filed on January 23, 2008 references drawing figures.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) 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 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> ... [A] provisional application having at least some disclosure ...for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, and filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This provisional application contains at least some disclosure for which a drawing figure is usually not considered essential for a filing date. Therefore, the application should have been accorded a filing date without drawings.

In addition, it is noted that figures are found in the appendices filed with the application on January 23, 2008. The figures are not labeled as drawings for this application.

In view of the above, the "Notice" mailed February 1, 2008 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of January 23, 2008. The petition is **granted**.

Pursuant to petitioner's request, the $400.00 petition fee will be credited to petitioner's credit card.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **January 23, 2008** and the mailing of a filing receipt reflecting the January 23, 2008 filing date.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRYAN JONATHAN TOLLMAN
453 WOBURN AVE.
TORONTO ON M5M 1L6 CA CANADA

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FEB 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Bryan Jonathan Tollman :
Application No. 61/023,198 : ON PETITION
Filed: January 24, 2008 :
Attorney Docket No. None :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2009, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Mark A. Litman appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Litman desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Litman, the 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 application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed March 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 27, 2008.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the provisional application cover sheet and surcharge of $25, (2) the petition fee $810, and (3) an adequate statement of unintentional delay.

A provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application is hereby deemed revived until January 24, 2009, when it went abandoned as a matter of law.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to the Office of Patent Application Processing for retention purposes.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARK A. LITMAN
YORK BUSINESS CENTER
3209 W. 76TH STREET
SUITE 205
EDINA, MN 55435

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SAN FRANCISCO OFFICE OF
NOVAK, DRUCE & QUIGG LLP
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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SEP 23 2008

OFFICE OF PETITIONS

In re Application of :
Santiago Becerra Sr. et al :
Application No. 61/023,217 : DECISION ON PETITION
Filed: January 24, 2008 :
Attorney Docket No. 8341.003.PZUS00 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed April 16, 2008, requesting refund of the filing fee for the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (5) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVAK, DRUCE & QUIGG LLP
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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OCT 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Santiago Becerra Sr. et al :
Application No. 61/023,217 : DECISION ON PETITION
Filed: January 24, 2008 :
Attorney Docket No. 8341.003.PZUS00 :

This is a supplemental decision on the request filed April 16, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $105.00, submitted on April 24, 2008, has been credited to petitioner's credit card account number.

As no further action will be taken in this application, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Adjustment date: 10/06/2008 GARIAS
01/25/2008 INTEFSW 00000311 61023217
01 FC:2005 -105.00 OP

THIS CORRESPONDENCE IS BEING SUBMITTED ELECTRONICALLY VIA THE ELECTRONIC FILING SYSTEM (EFS) OF THE U.S. PATENT AND TRADEMARK OFFICE ON **APRIL 16, 2008.**

PATENT

Docket No.: 8341.003.PZUS00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Santiago BECERRA, Sr., et al.

Conf. No.: 9482

Application No.: 61/023,217

Art Unit: Not Assigned

Filing Date: January 24, 2008

Examiner: Not Assigned

For: CUBE NAVIGATOR

PETITION UNDER 1.181 TO OBTAIN A REFUND FOR UNINTENDED DUPLICATE APPLICATION FILED VIA EFS-WEB

Refund Req.:
10/06/2008 00000061962

Credit Card Refund Total: $105.00

Am Exp..: XXXXXXXXXXX1048

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants respectfully request a refund of the filing fee of $105 charged in this provisional patent application and request intentional abandonment of this application once the filing fee has been refunded.

Applicants hereby certify that this application:

- is an unintentional duplicate of Provisional Application No. 61/023,058 filed on January 23, 2008 (the "first application").
- was intended to be the original application.
- was submitted via EFS-Web prior to receiving confirmation of receipt of the original application first filed.

There were technical difficulties occurring with EFS-Web on January 23, 2008 when the original application was filed. The application process failed to complete during payment of the

provisional filing fee via credit card, and no Electronic Filing Acknowledgment was ever made available. Therefore Applicants believed that filing of the application was not effected and filed the application a second time the following day on January 24, 2008. Only when two filing receipts with two discrete serial numbers and filing dates were received by mail from the USPTO did Applicants realize that a duplicate filing had occurred.

Payment of the $105 provisional application filing was charged to the same credit card twice, as reflected by the first credit card statement received after the filing date of this application. Payment of said filing fee is acknowledged for each of the two applications on their respective filing receipts.

Given the foregoing, Applicants respectfully request that the filing for this application be credited to our Deposit Account No. 14-1437 and that this application be intentionally abandoned.

* * * * *

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document (or to credit any overpayment) to **Deposit Account No. 14-1437** referencing **Docket No. 8341.003.PZUS00**. However, the Commissioner is not authorized to charge the cost of the issue fee to said Deposit Account.

Dated: April 16, 2008

Respectfully submitted,

By /Stephen C. Durant/

Stephen C. Durant
Registration No. 31,506
NOVAK DRUCE & QUIGG LLP
525 Market Street - Suite 3750
San Francisco, California 94105
Tel.: (415) 814-6161
Fax: (415) 814-6165

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10-2-08 | 2 Serial/Patent # 61/023217

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing		1-24-08	$ 105
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

2005

7 TOTAL AMOUNT OF REFUND: $ 105.00

8 TO BE REFUNDED BY: CC

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation): Duplicate Filing.

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Petitions Examiner

SIGNATURE: /Karen Creasy/ PHONE: 2-3208

OFFICE: Petitions

****

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APPROVED: [signature] DATE: 10/06/08

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

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

FORM PTO 1577
(01/90)

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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Gold et al.	:	
Application No. 61/023,936	:	ON PETITION
Filed: January 28, 2008	:	
Attorney Docket No. 702380	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed April 10, 2008, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from BERT M. GOLD to ALBERT MARK GOLD.

Petitioner submitted $130.00 towards payment of the $400.00 processing fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Office of Patent Application Processing.

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
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
61/023,936	01/28/2008		210	702380		

CONFIRMATION NO. 2519

CORRECTED FILING RECEIPT

45733
LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Date Mailed: 05/07/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Albert Mark Gold, Frederick, MD;
Kenneth Offit, New York, NY;
Tomas Kirchhoff, Astoria, NY;
Zhang-Qun Chen, Frederick, MD;

Power of Attorney: The patent practitioners associated with Customer Number 45733

If Required, Foreign Filing License Granted: 02/25/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/023,936**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF DETERMINING BREAST CANCER RISK

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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ALEXANDRIA, VA 22313-1450
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Paper No.

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON OH 44311

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MAY 12 2008

In re Application of	:	
Paul Lecat	:	
Application No. 61/023,971	:	DECISION ON PETITION
Filed: January 28, 2008	:	PURSUANT TO 37 C.F.R.
Attorney Docket No. 22904.47144	:	§ 1.53(E)(2)
Title: DEVICE AND METHODS FOR	:	
MEDICAL TRAINING USING LIVE	:	
SUBJECTS	:	

This is a decision on the petition filed February 28, 2008, requesting that a filing date be accorded to the above-identified application.

This petition is **GRANTED**.

On January 28, 2008, the above-identified application was deposited. On February 6, 2008, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Provisional Application - Filing Date Not Granted (notice)", advising applicant that the application was deposited without drawings, and that a filing date would be accorded upon the submission of drawings.

On February 28, 2008, Petitioner submitted this petition, along with an assertion that drawings are not necessary for an understanding of the subject matter sought to be patented.

The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

MPEP § 601.01(f) sets forth, in pertinent part:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).
>
> ...
>
> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

It is noted that Applicant has some disclosure to a method. Based solely on this fact, it has been determined that this application is entitled to a filing date of January 28, 2008, the initial date of deposit. The undersigned has not considered any of the arguments advanced for stating that a drawing is not necessary for a filing date.

The application file is being returned to the Office of Patent Application Processing (OPAP) for further processing with a **filing date of January 28, 2008**, the date of deposit of the application, using only the original application papers filed on that date. OPAP will then **mail an updated filing receipt.**

The drawings submitted on February 26, 2008 have not been entered, since provisional applications cannot be amended[1].

The petition fee will be refunded to Petitioner's Deposit Account in due course.

---

1 See 37 C.F.R. § 1.53(c). See also M.P.E.P. § 601.01(b).

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF RONALD M. ANDERSON
600 108TH AVE. NE
SUITE 507
BELLEVUE WA 98004

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APR 27 2009

OFFICE OF PETITIONS

In re Application of
Jack Kolle et al
Application No. 61/024,118
Filed: January 28, 2008
Attorney Docket No. TEMP0032

DECISION ON PETITION

This is a decision on the request filed March 18, 2008 and resubmitted on December 23, 2008 which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $105.00, charged on February 25, 2008, has been credited to petitioner's deposit account no. 01-1940 as requested.

It is noted that the instant application is expired. The above request was filed on March 18, 2008, within three months of payment of the filing fee. Also, applicant requested that the above application be canceled. Accordingly, no further action will be taken in this application.

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

Karen Creasy
Petitioner Examiner
Office of Petitions

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MENLO PARK CA 94025

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Heller	:	
Application No. 61/024,175	:	DECISION ON PETITION
Filed: January 28, 2008	:	PURSUANT TO
Attorney Docket No. FREE0002PR	:	37 C.F.R. § 1.57(A)
Title: SYSTEM AND METHOD FOR MANAGING BUSINESS PARTNERSHIPS AS THEY EVOLVE ACROSS ALL ASPECTS OF THE CONTENT CREATION AND ADVERTISING VALUE CHAIN	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.57(a), filed April 4, 2008, requesting that the above-identified application be accorded a filing date of January 28, 2008, including three sheets of drawings.

The application was deposited on January 28, 2008. However, on February 5, 2008, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Provisional Application - Filing Date not Granted" (notice) stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings. The notice set a two-month period for response.

On April 4, 2008, Petitioner filed this petition, along with the petition fee, and an assertion that although drawings were inadvertently omitted on filing, the specification of the present application "incorporates the drawings by reference to

Application Serial No.: 11/966,893."[1] Consequently, Petitioner has requested that the Office accord a filing date of January 28, 2008 to this application. Petitioner has included a copy of the drawings that are associated with Application No. 11/966,893, has requested that they be "placed in the file,"[2] and has indicated:

> [t]he Specification and Drawings will be submitted in a final format for conversion from Provisional to Utility by the statutory deadline date of January 28, 2009.
>
> Petition, page 1.

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

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

Thus, pursuant to MPEP § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application. Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Provisional Application. It follows that no petition is required.

To the extent the present petition requests a filing date of January 28, 2008 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee will be refunded in due course to Deposit Account No. 07-1445, as authorized.

The Office Patent Application Processing (OPAP) will be advised of this decision, so that this application can receive further processing, including:

- **correction of the filing date to January 28, 2008;**
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and;**
- **for issuance of a filing receipt.**

---

1 Petition, page 1.
2 Id.

Petitioner is reminded that no future amendment to introduce these drawings is possible, due to the fact that provisional applications cannot be amended.[3]

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[4]

Anthony Knight
Supervisor
Office of Petitions

3 See 37 C.F.R. § 1.53(c). See also MPEP § 601.01(b).
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Niwa, et al. :
Application No. 61/026,169 : ON PETITION
Filed: February 5, 2008 :
Attorney Docket No.: 67255-025PRV :

This is response to the "Response to Notice of Omitted Items in Provisional Application" filed February 26, 2008, which will be treated a petition under 37 CFR 1.182 requesting that the above-identified application retain the presently accorded filing date with the replacement sheets of drawings filed February 26, 2008, included and part of the original disclosure.

The petition is **dismissed**.

On February 5, 2008, the above-identified application was filed. However, on February 15, 2008, the Office of Patent Application Processing mailed a "Notice of Omitted Items of Provisional Application", stating that application had been accorded a filing date of February 5, 2008, and advising applicant that Figures 1B, and 2B as described in the specification appeared to have been omitted.

In response, on February 26, 2008, applicant filed the present petition. Applicant states that Figures 1B and 2B were not omitted, but that drawings were misnumbered. Applicant appears to request that the application retain a filing date of February 5, 2008, with the drawings filed February 26, 2008, replacing the drawings filed with the original disclosure[1].

Petitioner's attention is directed to section 601.01(b) of the *Manual of Patent Examining Procedure* (MPEP) which states, in pertinent part:

> [a] provisional application will be given a filing date in accordance with 37 CFR 1.53(c) as of the date the written description and any necessary drawings are filed in the Office. The filing date requirements for a provisional application sent forth the 37 CFR 1.53(c) parallel the requirements of a nonprovisional application set forth in 37 CFR 1.53(b), except that no claim is required. Amendments, other than those required to make the provisional application comply with applicable regulations, are not permitted after the filing date of the provisional application.

Further, section 601.01(d) of the MPEP provides that:

> . . . in view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional application, the USPTO will not grant petition under 37 CFR

[1] The undersigned notes that the drawings included with the original disclosure consisted of five sheets of drawings while the replacement drawings filed February 26, 2008, consisted of six sheets of drawings. Thus, its appears that drawings were not simply misnumbered, but that some figures were actually omitted.

> 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application.

Although the instant petition does not expressly state that the provisional application should be amended to include the papers filed on February 26, 2008, it is evident that the petitioner's intention is to amend the application to include a new and consistent set of drawings and retain the original filing date. The above-cited sections of the MPEP indicate that this is not possible. The amendment proposed by petitioner is not necessary to obtain a filing date as one has already been accorded and, as indicated by section 601.01(d) of the MPEP, where a petition under 37 CFR 1.182 is not grantable, a new and completed provisional application should be filed.

The petition is dismissed, accordingly. The instant provisional application will retain the filing date of February 5, 2008, with only those papers filed on that date.

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

Telephone inquiries concerning this matter may 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
P.O. Box 1450
Alexandria, VA 22313-1450
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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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DEC 17 2008

In re Application of :
Linda A. Kagan :
Application No. 61/026,515 : DECISION ON PETITION
Filed: February 6, 2008 :
Attorney Docket No. 5596/001 PROV :

This is a decision on the petition under 37 CFR 1.182, filed, September 17, 2008, to correct the spelling of the name of inventor "Nancy S. Kagan" to – Linda S. Kagan --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema Grant
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
61/026,515	02/06/2008		105	5596/001 PROV		

CONFIRMATION NO. 3573

CORRECTED FILING RECEIPT

22440
GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

Date Mailed: 12/19/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

LINDA S. KAGAN, New York, NY;

Power of Attorney:
Amy Goldsmith--33700

If Required, Foreign Filing License Granted: 02/27/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/026,515**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

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

INTERACTIVE DATABASE FOR CREATION AND CUSTOMIZATION OF FORMS

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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HOLMAN IP LAW
175 S MAIN STREET
SUITE #850
SALT LAKE CITY UT 84111

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of :
Chris Cindrich :
Application No. 61/026,683 : DECISION ON PETITION
Filed: February 6, 2008 :
Attorney Docket No: HIP0003.1P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice) mailed February 28, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 2008. A Notice of Abandonment was mailed November 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a Cover sheet and the $25.00 surcharge fee; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
Liana Walsh
Petition Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Lowenstein Sandler P.C.
65 Livingston Avenue
Roseland NJ 07068

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JAN 1 4 2009

OFFICE OF PETITIONS

In re Application of :
Peter J. WYATT :
Application No. 61/027,333 : DECISION ON PETITION
Filed: February 8, 2008 :
Attorney Docket No. 21077-53 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed March 05, 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 May 06, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper provisional application cover sheet as part of an application data sheet and surcharge of $50, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The surcharge of $50, which fee is set forth in 37 CFR 1.16(g), not 37 CFR 1.16(f) as set forth by Petitioner in the November 13, 2008 response, has been charged to deposit account 50-1358.

As provided by 35 U.S.C. 111(b)(5), a provisional application shall be regarded as abandoned 12 months after its filing date. 37 CFR 1.137(g) further provides that a provisional application, abandoned for failure to timely respond to an Office requirement, may be revived pursuant to 37 CFR 1.137, however a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances. Thus, even if though the petition is granted, such is granted only to establish the pendency up to the end of the 12-month period. Therefore this revived provisional application would not be considered pending after 12 months from its filing date of February 8, 2009.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6051.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received November 13, 2008.

for David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN NC 28563-0867

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Justin Sacks	:	
Application No. 61/028,015	:	DECISION ON PETITION
Filed: February 12, 2008	:	TO WITHDRAW
Attorney Docket No. 080129-00001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 there is not an address of the first named inventor or a properly intervening assignee under 37 CFR 3.73(b) to forward future correspondence.

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

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

Terri Williams
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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MICHAEL R. HENSON & ASSOCIATES, LLC
5613 DTC PARKWAY
SUITE 240
GREENWOOD VILLAGE, CO 80111

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
FAULKNER, Dean A. et al. :
Application No. 61/028,140 :
Filed: February 12, 2008 :
Attorney Docket No. **2214.02.01** :

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 30, 2008.

The request is **APPROVED**.

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

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with customer No. 74043. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DEAN N. FAULKNER**
6776 SOUTH MAGNOLIA COURT
CENTENNIAL, CO 80112

cc: **DAVID JACKSON**
5715 PUMA DRIVE
LOVELAND CO 80538

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P.O. Box 1450
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Christopher T. L. Douglas, Esq.
BLACK LOWE & GRAHAM PLLC
Suite 4800
701 Fifth Avenue
Seattle WA 98104

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
Todd Herman. :
Application No. 61/028486 : ON PETITION
Filing or 371(c) Date: 02/13/2008 :
Attorney Docket Number: HRMN-1-1002 :

This Decision is in response to a "Petition to Establish Receipt in the U.S. Patent and Trademark Office (PTO) of Item(s) Considered as Omitted by the PTO Response to Notice of Omitted Items," filed April 10, 2008, requesting that the application be accorded a filing date of February 13, 2008, including drawings. The petition is properly treated as a petition Under 37 CFR 1.53(e) to establish prior receipt of the drawing(s) at issue. See MPEP 601.01(f).

The petition is granted to the extent indicated herein.

The application was filed on February 13, 2008. On February 26, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application ("Notice") stating that the application had NOT been accorded a filing date, because the application had been deposited without drawings..

The present petition

Applicant files the present petition to add 18 sheets of drawings. In support of the petition, Applicant asserts that the acknowledgment receipt shows that the Office received 18 pages of drawings with the application papers filed on February 13, 2008.

A review of the application file

A review of the application file reveals that this Office sent to Applicant an Acknowledgment Receipt[1] evidencing the filing of 18 pages of drawings by Applicant on February 13, 2008.

[1] An acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007).

Applicant also re-files 18 pages of drawings. A review of the 18 pages of drawings filed with the petition reveal that the pages are not numbered. See, 37 CFR 1.84 §§ (d), (p) and (t).

A review of Office records confirms that this Office received 18 pages of drawings; however, the drawing pages were not labeled or numbered. The Office entered the drawings as an Appendix.

In view of the above, it is clear that 18 pages of drawings were present on filing, however, the drawings failed to comply with 37 CFR 1.84, and as such, were not entered as drawings, but as an appendix. Since the drawings were not properly labeled as drawings, the Notice mailed February 26, 2008 was correct.

To the extent that the present petition requests a filing date of February 13, 2008, the petition is **granted**.

In view of the fact that the petition was not necessitated by an error on the part of this Office, no refund of the petition fee is due Applicant.

The application will be returned to the Office of Patent Application Processing for:

1. correction of the filing date to February 13, 2008, including 18 pages of drawings filed February 13, 2008;

2. issuance of a Filing Receipt.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of :
Candice Chen :
Application No. 61/028,494 : DECISION ON PETITION
Filed: February 13, 2008 :
Attorney Docket No. 60422/W511 :

This is a decision on the petition under 37 CFR 1.182, filed, May 16, 2008, to correct the spelling of the name of inventor "Candace" to – Yawlin C. Chen --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, 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.

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

The matter is being referred to the Office of Patent Application Papers for processing.

/Carl Friedman/
Carl Friedman
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
61/028,494	02/13/2008		210	60422/W511		

CONFIRMATION NO. 1483

CORRECTED FILING RECEIPT

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Date Mailed: 12/11/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Yawlin C. Chen, Los Angeles, CA;

Power of Attorney:
Tiffany Parcher--58944

If Required, Foreign Filing License Granted: 02/22/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/028,494**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
Title

Method of Marketing Beauty Products

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.

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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

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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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Warren Graham
435 Canandaigua Avenue
West Hempstead, NY 11552

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FEB 02 2009

OFFICE OF PETITIONS

In re Application of :
Warren Kenyon Graham :
Application No. 61/029,174 : ON PETITION
Filed: February 15, 2008 :
Attorney Docket No. GRAHAMWK2008 :

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

The application became abandoned for failure to reply to the Notice to File Missing Parts of Provisional Application, mailed March 26, 2008. A Notice of Abandonment was mailed on September 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Application Data Sheet (ADS) and the $25 surcharge; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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APR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Huangfu et al.	:	
Application No. 61/029,287	:	ON PETITION
Filed: February 15, 2008	:	
Attorney Docket No. H2040-700000	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 15, 2009, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the Notice of File Missing Parts of Provisional Application mailed March 6, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on May 7, 2008. A Notice of Abandonment was mailed November 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Provisional Application for Patent Cover Sheet and the $50.00 surcharge, (2) the petition fee, and (3) a proper statement of unintentional delay.

A provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application is hereby deemed revived until February 15, 2009, when it went abandoned as a matter of law.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2,350.00 extension of time fee submitted with the petition on January 15, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MR. MARK SLIPP
2298 BELYEA ST
OAKVILLE ON L6L 1N6 CA CANADA

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
Slipp, et al. :
Application No. 61/029,334 : DECISION ON PETITION
Filed: February 16, 2008 :
Title: Collaborative Multi-Tiered :
Skills Competition

This is a decision on the paper filed May 5, 2008, in response to the Notice of Incomplete Provisional Application mailed March 7, 2008, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of February 16, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on February 16, 2008. However, on March 7, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner states that drawings are not necessary for an understating of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the name of all the inventors.

The instant provisional application contains disclosure for which a drawing is usually not considered essential for a filing date 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 view of the above, the "Notice of Incomplete Provisional Application" mailed March 7, 2008, was mailed in error and is hereby **withdrawn**.

The Office should have instead mailed a Notice of Omitted Items in a Provisional Application.

As the instant petition was due to USPTO error, no petition fee was necessary.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of February 16, 2008, for indication on the file wrapper label to show that "0" sheets of drawings were present on filing, and for mailing of a "Notice of Omitted Items in a Provisional Application".

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MAY 21 2008

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

In re Application of	:	
Karl A. Karst	:	
Application No. 61/029,411	:	DECISION ON PETITION
Filed: February 18, 2008	:	
Attorney Docket No. F12.12-0182	:	

This is a decision on the request filed March 28, 2008 which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (5) and (6) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 07 2009

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

In re Application of
Karl A. Karst
Application No. 61/029,411
Filed: February 18, 2008
Attorney Docket No. F12.12-0182

DECISION ON PETITION

This is a decision on the renewed request filed December 30, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (5) above.

In the instant petition submitted on December 30, 3008, applicant states that: "The instant application having a serial no. 61/029,965 is a duplicate of the application having a serial no. 61/028,965." Clarification is required as the instant application no. is 61/029,411 and not 61/029,965.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Wisconsin Alumni Research Foundation (WARF)
C/O Foley & Lardner LLP
Verex Plaza, 150 East Gillman Street
Madison WI 53703-1481

In re Application of :
Anderson, et al. :
Application No. 61/030,169 : ON PETITION
Filed: February 20, 2008 :
Attorney Docket No.: 032026-1129 :

This is a decision on the petition filed May 16, 2008, titled "Petition to Withdraw Notice of Omitted Items of Provisional Application".

The petition is **dismissed**.

On February 20, 2008, the above-identified application was filed. However, on March 17, 2008, the Office of Patent Application Processing mailed a Notice to of Omitted Items in Provisional Application, stating that application had been accorded a filing date of February 20, 2008, and advising applicant that Figures 8A-8D as described in the specification appeared to have been omitted. The notice allowed a two month period for reply.

In response, on May 16, 2008, applicant filed the present petition. Petitioner explains that Figures 8A-8D were not missing, rather that a USPTO conversion process resulted in the figures not being viewable in the Image File Wrapper. Petitioner indicates that petitioner attempted to have the error corrected through the USPTO to no avail.

The Notice of Omitted Items of Provisional Application cannot be withdrawn based on the evidence provided with the instant petition. The application file as maintained by the USPTO is presumed to be accurate absent *prima facie* evidence to the contrary. In order to withdraw the Notice of Omitted Items of Provisional Application, petitioner must establish by *prima facie* evidence that Figures 8A-8D accompanied the application papers on February 20, 2008. Petitioner has not provided objective evidence that would corroborate petitioner's assertion that Figures 8A-8D accompanied the provisional application papers on February 20, 2008[1]. The petition is dismissed accordingly.

Deposit account 19-0741 will be charged $400.00 for the instant petition fee.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of February 20, 2008, not including Figures 8A-8D.

[1] Petitioner should note that an e-mail communication was sent to Doug Levin and Ronald Wiesman on June 27, 2008, inquiring as to the alleged conversion error. To date, the undersigned has received no response from either. The petition decision is based on the record as it presently exists.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wisconsin Alumni Research Foundation (WARF)
C/O Foley & Lardner LLP
Verex Plaza, 150 East Gillman Street
Madison WI 53703-1481

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DEC 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Anderson, et al. :
Application No. 61/030,169 :
Filed: February 20, 2008 :
Attorney Docket No. 032026-1129 :

DECISION GRANTING PETITION

This is a decision on the "Request for Reconsideration of Petition Decision", filed November 5, 2008.

The petition is **granted**.

On February 20, 2008, the above-identified application was filed. However, on March 17, 2008, the Office of Patent Application Processing mailed a Notice to of Omitted Items in Provisional Application, stating that application had been accorded a filing date of February 20, 2008, and advising applicant that Figures 8A-8D as described in the specification appeared to have been omitted. The notice allowed a two month period for reply. By the present petition, petitioner explains that Figures 8A-8D were not missing, rather that a USPTO conversion process resulted in the figures not being viewable in the Image File Wrapper.

A review of the Image File Wrapper for the application reveals that record has been corrected such that Figures 8A-8D are viewable. The evidence is convincing that the application papers deposited February 20, 2008, included Figures 8A-8D which were improperly converted by the Office. Therefore, the application, including Figures 8A-8D, was complete on filing and entitled to a filing date of February 20, 2008.

Accordingly, the petition is granted.

The petition fee of $400.00 will be refunded, in due course.

The application file is being returned to the Office of Patent Application Processing for an indication in the application file record that Figures 8A-8D accompanied the original application papers filed February 20, 2008.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN CT 06473

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AUG 0 4 2008

In re Application of	:	
Frank Viola	:	DECISION ON PETITION
Application No. 61/031,374	:	PURSUANT TO
Filed: February 26, 2008	:	37 C.F.R. § 1.182
Attorney Docket No. H-US-00456 (203-5451)	:	
Title: FLEXIBLE HOLLOW SPINE WITH LOCKING FEATURE AND MANIPULATION STRUCTURE	:	

This is in response to the petition filed on April 28, 2008, Requesting that this application be accorded a filing date of February 26, 2008, with Figures 1B and 1C as part of the original disclosure.

The application was deposited on February 26, 2008. However, on March 7, 2008, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Provisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that Figures 1B and 1C appeared to have been omitted on filing. The notice set a two-month period for reply.

In response, this petition was filed on April 28, 2008. The petition is further accompanied by, *inter alia*, a copy of 5 pages of drawings and an Acknowledgement Receipt that confirms that 5 pages of drawings were received in the Office on February 26, 2008. **Petitioner has asserted that 5 pages of drawings were submitted to the Office on filing, and that Figures 1B and 1C were among these pages.**

Petitioner has indicated "Applicant feels that no fee is deemed necessary in connection with the resubmission of the formal drawings…[1]" It is noted that the need for a $400 petition fee is expressly set forth in the notice of February 26, 2008. This fee will be charged to Petitioner's Deposit Account in due course.

The electronic file has been reviewed, and 5 pages of drawings have been located, containing Figures 1, 2 and 3, 4 and 5, 6, and 7 and 8. **Figures 1B and 1C are not among the 5 pages of drawings that were submitted on filing.**

Moreover, it is noted that **Figures 1B and 1C are not among the 5 pages of drawings that were submitted concurrently with this petition.**

It does not appear that Petitioner has submitted Figures 1B and 1C to the Office, either on initial filing or with this petition.

It follows that this petition is **DISMISSED**.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing, using the application papers received on filing.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petition, page 1.
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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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OFFICE OF PETITIONS

In re Application of	:	
Kuo et al.	:	
Application No. 61/031,774	:	ON PETITION
Filed: February 27, 2008	:	
Attorney Docket No. 250213-8010	:	

This is a decision on the petition under 37 CFR 1.182, filed, September 22, 2009, to change the name of the second inventor.

The petition is **GRANTED.**

The name has been changed from Edward Chou to Der-Hwa Chou.

A Corrected Filing Receipt was mailed October 23, 2009.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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HANSEN HUANG TECHNOLOGY LAW GROUP, LLP
1725 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20006

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of Elkashef :
Application No. 61/032,010 : Decision on Petition
Filing Date: February 27, 2007 :
Attorney Docket No. 1040-003 :

This is a decision on the petition filed on March 21, 2008, which is being treated as a petition requesting that the above-identified provisional application be accorded a filing date of February 27, 2007.

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

The application was filed February 27, 2007.

The specification filed on February 27, 2007, described drawings. The drawing figures described in the specification were not filed with the application.

On March 17, 2008, a Notice was mailed stating the application was filed without drawings. The Notice stated a filing date had not been accorded and the filing date would be the date of receipt of drawings.

Petitioner asserts the drawings contained in several prior art documents filed as appendices to the specification should be sufficient to accord the application a filing date. However, the Office need not address the assertion because the application is entitled to a filing date even in the absence of any drawings.

It is the practice of the PTO to treat a provisional application that contains at least some disclosure directed to a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) 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)....

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains some disclosure directed to a process or method. **Therefore, the application will be accorded a filing date of February 27, 2007, despite the absence of drawings.**

Per 601.01(g), a Notice of Omitted Items rather than a Notice of Incomplete Application should have been mailed. The Notice of Omitted Items would have informed petitioner a filing date had been accorded and that the drawing figures referred to in the specification appeared to be missing.

In view of the above, the "Notice" mailed March 17, 2008, was mailed in error and is hereby withdrawn.

The application will be accorded the February 27, 2007.

The petition fee of $400 has been credited back to petitioner's deposit account.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of February 27, 2007, using the application papers filed February 27, 2007.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ROTEM COMPUTERIZED CONTROLLERS LTD.
1 HAOFAN ST.
PETACH TIKVA 49512 IL ISRAEL

In re Application of :
Zion Halfon :
Application No. 61/032,432 : ON PETITION
Filed: February 29, 2008 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed by February 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed March 26, 2008. The notice set a two-month period to respond and required (1) a provisional application cover sheet under 37 CFR 1.51(c)(1), or an Application Data Sheet (ADS) identifying either the city and state or city and foreign country of the residence of each inventor and (2) the surcharge as set forth in 37 CFR 1.16(g) of $25. It is noted that a response was filed, including an appropriate 1-month extension of time on June 11, 2008; however, the fees required could not be collected as the credit card information was not legible. Accordingly, on June 19, 2008 a Notice of Incomplete Reply was mailed. A Notice of Abandonment was subsequently mailed on January 9, 2009. In response, on February 19, 2009, the present petition was filed.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Gregory Scott Smith 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. A courtesy copy of this decision is being mailed to Mr. Smith, the 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a provisional application cover sheet and the $25 surcharge; (2) the petition

fee of $810; and (3) an adequate statement of unintentional delay[1] Accordingly, the failure to timely reply to the Notice of March 26, 2008 is accepted as being unintentionally delayed.

Subject to the provisions of 35 U.S.C. § 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GREGORY SCOTT SMITH
TWO RAVINIA DRIVE, SUITE 700
ATLANTA, GA 30346

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

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MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Lovett et al.	:	
Application Number: 61/032896	:	ON PETITION
Filing Date: 02/29/2008	:	
Attorney Docket Number: 10086-705.100	:	

This is a decision on the petition filed on April 17, 2008, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including drawing Figure 2B, be accorded a filing date of February 29, 2008.

The application was filed on February 29, 2008.

On March 13, 2008, however, the Office of Patent Application Processing Mailed a Notice of Omitted Item(s) in a Provisional Application, stating that Figure 2B described in the specification appeared to have been omitted.

In response on April 17, 2008, the present petition was filed. Petitioner asserts that Figure 2B was in fact filed on February 29, 2008,

Upon review, Figure 2B was present among the papers filed on February 29, 2008. Specifically, Figure 2B is located on the second sheet of drawings present on filing.[1]

Accordingly, the showing of record supports applicants' assertion that Figure 2B was present on filing. The Office apologizes for the error and regrets any inconvenience to applicants.

The petition is **granted**.

The Notice of Omitted Item(s) is **withdrawn**.

[1] The Figure labels are difficult to read because of poor contrast on the drawing sheet, but, upon close inspection, Figure 2B and its label are readable.

As the petition resulted from Office error, the fee will be credited to counsel's deposit account

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

All other inquiries regarding this decision may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of :
Gary R. Tucholski, et al. :
Application No. 61/033,927 : ON PETITION
Filed: March 5, 2008 :
Attorney Docket No. THIN-43432 :

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

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 Mr. Steven J. Solomon 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**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed March 17, 2008. The notice set a two-month period to respond and required (1) a provisional application cover sheet under 37 CFR 1.51(c)(1), or an Application Data Sheet (ADS) identifying either the city and state or city and foreign country of the residence of each inventor and (2) the surcharge as set forth in 37 CFR 1.16(g) of $25. A Notice of Abandonment was mailed on November 24, 2008. On December 3, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a provisional application cover sheet and the $25 surcharge; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1] Accordingly, the failure to timely reply to the Notice of March 17, 2008 is accepted as being unintentionally delayed.

Subject to the provisions of 35 U.S.C. § 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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LAW OFFICES OF DONNA L. ANGOTTI
140 BROADWAY
NEW YORK NY 10005

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FEB 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Lowenstein et al.	:	DECISION ON PETITION
Application Number: 61/034477	:	TO WITHDRAW HOLDING OF
Filing Date: 03/06/2008	:	ABANDONMENT
Attorney Docket Number:	:	
1906/004	:	

This is a decision on the petition, filed on December 11, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application became abandoned on May 20, 2008, for failure to timely respond to the Notice to File Missing Parts of Provisional Application mailed on March 19, 2008, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on November 24, 2008.

Petitioners state that a response was timely filed on May 19, 2008. In support, petitioners have provided an itemized stamped postcard bearing an Office-date stamp of May 19, 2008, and an Express Mail mailing label.

A review of the papers received in the Office reveals that the papers are addressed to Application No. 61/034,479 rather than the subject application. Furthermore, the postcard receipt contains the first named inventor's name, confirmation number, attorney docket number, and invention title of Application No. 61/034,479.

Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn.

MPEP 503 states that the postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.

As such, the postcard is evidence of the filing of the papers itemized thereon in Application No. 61/034,479, but does not serve as *prima facie* evidence that a response was ever filed directed to Application No. 61/034,477.

It is additionally noted that petitioner has not supplied a copy of the papers allegedly timely filed in Application No. 61/034,477.

With regard to the Express Mail label, 37 CFR 1.10(e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

> (4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition lacks item 3 above. No copy of the correspondence asserted to have been timely filed in the subject application has been provided. Rather, the papers bearing the Express Mail number reference Application No. 61/034,079. As such, the showing of record is that a response was filed in Application 61/034,079, but that no response was ever filed in the subject application.

In summary, the showing of record is that no reply was filed on May 19, 2008, in the subject application. As such, the application was properly held abandoned.

Petitioners may wish to consider filing a petition to revive the subject application under 37 CFR 1.137(b), accompanied by a reply to the Notice mailed on March 19, 2008.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

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

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

By hand: Customer Service Window
Mail Stop Petition
Randolph Building

[1] 37 CFR 1.181(f).

401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Petition Information for 61/034477

Entry Date	Type Requested	Petition Filing Date	Decision	Type Decided	Decision Date	Deciding Official	Deciding Office
01/09/2009	520 R	01/07/2009 12/11/08				WOOD, DOUGLAS I	

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Attorney Docket # [ ] Search

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TO 12/11/08
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PETITION

PATENT

ATTORNEY DOCKET NO. 1906-004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: ~~61/034,479~~ 61/034,477 Confirmation No.: 6274
Applicant: Douglas G. Lowenstein, et al.
Title: FINANCING OF TENANT IMPROVEMENTS
Filed: March 6, 2008
Art Unit: unassigned
Examiner: unassigned

Atty. Docket: 1906-004
Customer No. 68536

REQUEST TO WITHDRAW IMPROPER ABANDONMENT AND RESPONSE TO NOTICE TO FILE MISSING PARTS

OIPE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This paper is filed in response to the Notice of Abandonment dated November 24, 2008, (a copy of which is attached). The application was held abandoned for failure to file a response to the Notice of Missing parts mailed March 19, 2008. A response was filed May 19, 2008 (a copy of which is attached). No additional fee is required.

Enclosed is a copy of the May 19, 2008 express mail label with the US Postal Service date stamp of May 19, 2008, and a copy of the return post card with the USPTO date stamp of May 19, 2008. The copy of the response includes a copy of the certificate of express mailing for May 19, 2008. Accordingly, the abandonment is improper, and Applicant respectfully requests the abandonment be withdrawn.

The paper filed in response to the Notice to File Missing Parts of Provisional Application mailed March 19, 2008, (a copy of which is attached) encloses an Application Data sheet. Authorization to charge to Deposit Account No. 50-3219 the surcharge fee of $25.00 for a small entity is hereby given.

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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INTERNATIONAL SPECIALTY PRODUCTS
WILLIAM J. DAVIS, ESQ.
1361 ALPS ROAD
WAYNE, NJ 07470

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
Susan M. Lindstrom, et. al. :
Application No. 61/034,588 : DECISION ON PETITION
Filed: March 7, 2008 :
Attorney Docket No. 3111P :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed March 25, 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 May 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a supplemental Application Data Sheet (ADS) and $50 for the surcharge fee, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of John F. Kane appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision will be mailed to the address on the petition.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: John F. Kane
P.O. Box 8801
2000 Courthouse Plaza, NE
Dayton, OH 45402

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

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OFFICE OF PETITIONS

In re Application of :
Richard E. Donais, et al. :
Application No. 61/034,796 : DECISION ON PETITION
Filed: March 7, 2008 :
Attorney Docket No. W07/057-0 (ALS-0039) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed March 24, 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 May 25, 2008.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this status of this application should be directed to the Office of Patent Application Paper at 571-272-4000.

This application is being referred to back to the Office of Patent Application Papers for pre-examination processing of the reply received February 4, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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GERALD E. LINDEN
C/O STAUFFER
1006 MONTFORD RD.
CLEVELAND HEIGHTS OH 44121

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OFFICE OF PETITIONS

In re Application of
David Finn
Application No. 61/034,987
Filed: March 9, 2008
Attorney Docket No. FINN-C19-ppa ("Case 19")

DECISION ON PETITION

This is a decision on the request filed March 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $105, submitted on March 9, 2008, has been credited to petitioner's credit card account.

As no further action will be taken in this application, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application as requested in the petition submitted on March 20, 2008.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARVEY S. KAUGET
PHELPS DUNBAR, LLP
100 SOUTH ASHLEY DRIVE
SUITE 1900
TAMPA FL 33602

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OFFICE OF PETITIONS

In re Application of	:	
Santo R. Curatolo et al	:	
Application No. 61/034,998	:	DECISION ON PETITION
Filed: March 9, 2008	:	
Attorney Docket No. 0033.0001.PZUS01	:	

This is a decision on the petition filed March 20, 2008, under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $210.00, submitted on March 9, 2008, has been credited to petitioner's credit card account number.

As no further action will be taken in this application, this matter is being referred to the Office of Data Management for express abandonment of the subject application.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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ANTHONY L. MEOLA, ESQ.
66 INDIAN WELLS ROAD
BREWSTER NY 10509

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of :
Santo R. Curatolo et al :
Application No. 61/035,001 : DECISION ON PETITION
Filed: March 9, 2008 :
Attorney Docket No. 0033.0001.PZUS01 :

This is a decision on the petition filed March 20, 2008, under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $210.00, submitted on March 9, 2008, has been credited to petitioner's credit card account number.

As no further action will be taken in this application, this matter is being referred to the Office of Data Management for express abandonment of the subject application.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
David Finn
Application No. 61/035,008
Filed: March 9, 2008
Attorney Docket No. FINN-C19-ppa ("Case 19")

DECISION ON PETITION

This is a decision on the request filed March 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $105, submitted on March 9, 2008, has been credited to petitioner's credit card account.

As no further action will be taken in this application, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application as requested in the petition submitted on March 20, 2008.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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1006 MONTFORD RD.
CLEVELAND HEIGHTS OH 44121

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OFFICE OF PETITIONS

In re Application of
David Finn
Application No. 61/035,017
Filed: March 9, 2008
Attorney Docket No. FINN-C19-ppa ("Case 19")

DECISION ON PETITION

This is a decision on the request filed March 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $105, submitted on March 9, 2008, has been credited to petitioner's credit card account.

As no further action will be taken in this application, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application as requested in the petition submitted on March 20, 2008.

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1S376 SUMMIT AVENUE
COURT C
OAKBROOK TERRACE IL 60181

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APR 29 2009

OFFICE OF PETITIONS

In re Application of :
Takayuki Akahoshi :
Application No. 61/035024 :
Filing or 371(c) Date: 03/09/2008 :
Attorney Docket Number: 10007-2-134 : ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed March 9, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed March 25, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned May 26, 2008. A Notice of Abandonment was mailed December 3, 2008.

Applicant files the present petition and drawings in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

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

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

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Robert Q. Riley
8368 West Berridge Lane
Glendale, AZ 85305

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OFFICE OF PETITIONS

In re Application of	:	
Robert Q. Riley	:	
Application No. 61/035,664	:	DECISION ON PETITION
Filed: March 11, 2008	:	
Attorney Docket No.	:	

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

The petition is **DISMISSED**.

The above-identified provisional application was abandoned on March 12, 2008, twelve (12) months after the filing of the application. An abandoned provisional application is not subject to revival after the twelve (12) month period, see 35 U.S.C. 111(b)(5). For this reason the petition cannot be granted. There is no relief for extending the twelve (12) month time period of a provisional application.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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AUG 1 8 2008

In re Application of

RAY, Sandip et al.
Application No. 61/035,724
Filed: March 11, 2008
Attorney Docket No. **36329-701.101**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 03, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because it does not properly identify the attorney(s)/agent(s) to be withdrawn. Power of Attorney was not provided in this application.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **KIDSDX CORP.**
1 BLACKFIELD DR., STE 313
TIBURON CA 94920

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

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SEP 19 2008

In re Application of Chae et al. :
Application No. 61/035,801 : Decision on Petition
Filing Date: March 12, 2008 :
Attorney Docket No. CU-6449 :

This is a decision in response to the petition filed June 6, 2008, which is being treated as a petition under 37 CFR 1.181.

The petition is **granted**.

Petitioner filed a request for a corrected filing receipt on April 25, 2008, to correct the name of the sixth inventor.

The Office of Patent Application Processing denied the request for a corrected filing receipt and indicated petitioner must file a petition under 37 CFR 1.182.

The instant petition requests correction of the sixth inventors name without the need to file a petition under 37 CFR 1.182. In essence, the instant petition seeks review of OPAP's refusal to issue the corrected filing receipt.

MPEP 605.04(b) states,

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee. Since amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the name of the inventor cannot be granted if filed after the payment of the issue fee.

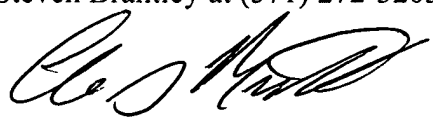
In order to determine if a petition under 37 CFR 1.182, the Office must determine if the correction of the inventor's name involves the correction of a typographical or transliteration error.

OPAP appears to have acted correctly based on the record at the time. However, the instant petition introduces new information.

Upon review of the current record, the Office finds the mistake was either of a sufficiently typographical nature so as not to require a petition under 37 CFR 1.182 to correct the error.

The name of the sixth inventor has been corrected in Office records and a correcting filing receipt is attached.

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

Attached: 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
61/035,801	03/12/2008		105	CU-6449 WWP		

CONFIRMATION NO. 1533

CORRECTED FILING RECEIPT

26530
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

OC00000032057212

Date Mailed: 09/12/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Jong-Suk CHAE, Daejeon, KOREA, REPUBLIC OF;
Cheol Sig PYO, Daejeon, KOREA, REPUBLIC OF;
Gil Young CHOI, Daejeon, KOREA, REPUBLIC OF;
Se Won OH, Daejeon, KOREA, REPUBLIC OF;
Chan-Won PARK, Daejeon, KOREA, REPUBLIC OF;
JOSEF PREISHUBER-PFLUEGL, Klagenfurt, AUSTRIA;
David TSCHISCHE, Klagenfurt, AUSTRIA;

Power of Attorney:
Richard Streit--25765

If Required, Foreign Filing License Granted: 03/20/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/035,801**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

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

Title

SITUATIONAL RFID COMMAND RETRANSMISSION

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

NONGQIANG FAN
PO BOX 946
HOLBROOK NY 11741

COPY MAILED

APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Fan, Nongqiang	:	
Application No. 61/036,978	:	ON PETITION
Filed: March 16, 2008	:	
Attorney Docket No. 0508-0P-316	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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 Application (Notice) mailed April 10, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 11, 2008. A Notice of Abandonment was mailed on December 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Provisional Cover Sheet and the $25.00 late surcharge, (2) the petition fee, and (3) a proper statement of unintentional delay.

A provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application is hereby deemed revived until midnight of March 16, 2009, when it went abandoned as a matter of law.

This matter is being referred to the Office of Patent Application Processing (OPAP) for further processing and retention purposes.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to OPAP.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 27 2009

OFFICE OF PETITIONS

Ormet Circuits, Inc.
10080 Willow Creek Rd.
San Diego, CA 92131

In re Application of Shearer :
Application No. 61/037,111 : Decision on Petition
Filing Date: March 17, 2008 :
Attorney Docket No. ORM002 :

This is a decision on the petition filed January 21, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The application was filed March 17, 2008, without a cover sheet.

A Notice to File Missing Parts of Provisional Application was mailed May 2, 2008. The Notice required the submission of a cover sheet and payment of a $25 surcharge. The Notice set a period for reply of two (2) months from the mail date of the Notice.

The Office's file record includes the following items received on June 2, 2008:

(A) A returned copy of the Notice to File Missing Parts which includes a notation added by the Office that indicates the copy was accompanied by payment of $25, and
(B) One page labeled, "Provisional Application Cover Sheet Page 2 of 2."

The single page of Cover Sheet in the file does not include the following required information set forth in 37 CFR 1.51(c):

(A) The name or names of the inventor(s),
(B) The title of the invention,
(C) The residence of each named inventor, or
(D) A correspondence address.

The Office mailed a Notice of Incomplete Reply on June 13, 2008. The Notice stated the Office had received a reply on June 2, 2008, but the reply was incomplete. The Notice also indicated the time period set forth in the May 2, 2008 continued to apply. The Notice also stated, "The provisional application cover sheet under 37 CFR 1.51(c)(1), which may be an application data sheet (37 CFR 1.76) is required identifying ... either [the] city and state, or city and foreign country, of the residence of each inventor."
The Office did not receive a new reply or a request for an extension of time in response to the mailing of the June 13, 2008 Notice. As a result, the application became abandoned on July 3, 2008.

A Notice of Abandonment was mailed January 7, 2009. The Notice of Abandonment incorrectly states the application is abandoned because the Office failed to receive a reply to the May 2, 2008 Notice. However, the Notice of Abandonment should have indicated the application was abandoned because the Office never received a "proper" reply to the May 2, 2008 Notice.

The instant petition was filed January 21, 2009. The petition states,

(1) A reply was timely filed in response to the May 2, 2008 Notice,
(2) The reply included a copy of the notice, cover sheet, and a check for $25, and
(3) Petitioner has no record of receiving a postcard receipt from the USPTO.

Petitioner has not supplied a copy of the papers originally filed June 2, 2008, and the petition appears to indicate petitioner does not have a copy of those papers.

Discussion

The language in the petition will be interpreted as an assertion a complete copy (2 pages) of a cover sheet were filed June 2, 2008.

An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In general, statements asserting a paper was filed, without more, are not more persuasive of what was actually filed in the USPTO than the contents of the application file.[1]

In this case, the official government record, maintained by disinterested USPTO employees as a part of their customary and usual duties, indicates only one page of the cover sheet was filed on June 2, 2008. To the extent petitioner is asserting two pages of cover sheet were filed, such an assertion has been considered. However, petitioner has not shown such an assertion would have more probative value than the official government record of what was actually received in the USPTO on June 2, 2008.

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[1] Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996) stated,

> Plaintiff thereafter submitted three affidavits, a declaration, and copies of two pages of records from his attorney's law firm, but the Commissioner finally denied plaintiff's petition for a filing date. . . . Nothing submitted by plaintiff to the Patent and Trademark Office is corroborated by anything outside the office of the submitting counsel. . . . The decision was for the Commissioner to make, and I cannot find on the basis of the record presented to me that the Commissioner's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

Even if petitioner could prove two pages of cover sheet were filed June 2, 2008, petitioner has failed to establish the instant petition was timely filed.

In essence, an allegation that a complete cover sheet was filed June 2, 2008, is an assertion that the June 13, 2008 Notice was mailed in error by the Office. Assuming petitioner received the June 13, 2008 Notice, petitioner should have filed either a petitioner or some other type of response disagreeing with the Notice within two months of the mailing date of the Notice (June 13, 2008). The instant petition was not filed until more than seven months after the Office mailed the June 13, 2008 Notice and petitioner has failed to provide any explanation for the delay in filing some form of response to the June 13, 2008 Notice.

Conclusion

The record fails to prove two pages of cover sheet were filed June 2, 2008, or establish the instant petition was timely filed. Therefore, the petition is dismissed.

If petitioner wishes to revive the application, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (a complete cover sheet), the required petition fee ($810 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

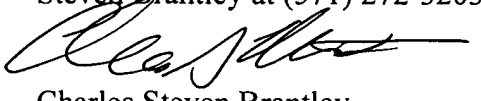
A copy of a PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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

Michael L. Diaz, P.C.
555 Republic Drive, Suite 200
Piano, TX 75074

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of :
Terry Caterisano et al. :
Application No. 61/037,326 :
Filed: March 18, 2008 :
Attorney Docket No. 5321-0001 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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 Missing Parts of Non-Provisional Application (Notice), mailed May 5, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly the case became abandoned on July 6, 2008. A Notice of Abandonment was mailed on January 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $110 for a filing fee, $135 for excess pages over 100 and $25 surcharge fee, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees are accepted as being unintentionally delayed.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received March 18, 2009.

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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OFFICE OF PETITIONS

GLASS & ASSOCIATES
P.O. BOX 1220
LOS GATOS CA 95031-1220

In re Application of :
Xuming Henry Zeng :
Application No. 61/037,696 : ON PETITION
Filed: March 18, 2008 :
Attorney Docket No. IDT 2429PR

This is a decision on the petition under 37 CFR 1.182, filed September 2, 2008, to change the name of the sole inventor cited on this application in USPTO records.

The petition is granted.

The name of the sole inventor for the above-cited application is changed to "Xuming Henry Zeng."

A corrected filing receipt is enclosed.

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

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
61/037,696	03/18/2008		210	IDT 2429 PR		

CONFIRMATION NO. 9585

CORRECTED FILING RECEIPT

33087
GLASS & ASSOCIATES
P.O. BOX 1220
LOS GATOS, CA 95031-1220

Date Mailed: 09/29/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Xuming Henry Zeng, Sunnyvale, CA;

Power of Attorney:
Kenneth Glass--42587

If Required, Foreign Filing License Granted: 05/09/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/037,696**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
Title

System and Method for Embedded DisplayPort Link Training

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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

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

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

Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Detmer, et al. :
Application No. 61/038,064 : DECISION GRANTING PETITION
Filed: March 20, 2008 :
Attorney Docket No. 2007P22920US :

This is a decision on the petition filed May 20, 2008, to accord the above-identified application a filing date.

On March 20, 2008, the application was deposited.

On May 7, 2008, the Office of Patent Application Processing mailed a Notice stating that drawings were not present and that a filing date had not been accorded the application. The Notice further indicated that the filing date would be the date of receipt of the drawings.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that this provisional application contain method claims. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

In view of the above, the petition is **granted. The petition fee of $400.00 will be refunded.**

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of March 20, 2008. **A filing receipt should be issued reflecting the application filing date of March 20, 2008. It should also be noted in the application file history that no drawings were present on filing and are not made a part of the provisional application by this decision.**

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEXTCEA, INC.
3 GOFFE ROAD
LEXINGTON MA 02421

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Frank Hsieh :
Application No. 61/038,454 : ON PETITION
Filed: March 21, 2008 :
For: Method For Identifying and Quantitating :
Drug and Drug Metabolites and Safety :
Assessment :

This is in response to the communication, filed January 26, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On May 13, 2008, the Office mailed a Notice to File Missing Parts, which set a two month shortened statutory period to reply. The application became abandoned on July 14, 2008, for failure to submit a timely response to the May 13, 2008 Notice. On January 15, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the Notice to File Missing Parts. Specifically, petitioner states that the May 13, 2008 Notice was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the May 13, 2008 Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must

explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice to File Missing Parts of May 13, 2008, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after May13, 2008 to demonstrate nonreceipt of the May 13, 2008 Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice to File Missing Parts was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after May 13, 2008; the period when he would have received the May 13, 2008 Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the May 13, 2008 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the May 13, 2008 Notice accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Notice rto File Missing Parts dated May 13, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/038,454	03/21/2008	Frank Y. Hsieh	

CONFIRMATION NO. 3203

67405
NEXTCEA, INC.
3 GOFFE ROAD
LEXINGTON, MA 02421

FORMALITIES LETTER

OC000000029868827

Date Mailed: 05/13/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

An application number and filing date have been accorded to this provisional application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The provisional application cover sheet under 37 CFR 1.51(c)(1), which may be an application data sheet (37 CFR 1.76), is required identifying either city and state, or city and foreign country, of the residence of each inventor and the name of each inventor.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/kxaysana/

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

Day : Thursday
Date: 2/26/2009

PALM INTRANET

Time: 16:03:11

PTA Calculations for Application: 10/553413			
Application Filing Date:	09/20/2006	PTO Delay (PTO):	114
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	37
Post-Issue Petitions:	0	Total PTA (days):	83
PTO Delay Adjustment:	6		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	02/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
51	02/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	37		
44	11/17/2008	MAIL NOTICE OF ALLOWANCE	22		34
43	11/13/2008	ISSUE REVISION COMPLETED			
42	11/13/2008	DOCUMENT VERIFICATION			
39	11/13/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	11/06/2008	NOTICE OF ALLOWABILITY			
36	09/02/2008	PARALEGAL TD ACCEPTED			
35	08/30/2008	DATE FORWARDED TO EXAMINER			
34	06/26/2008	RESPONSE AFTER NON-FINAL ACTION		37	30
33	06/26/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	02/26/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
31	02/25/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
30	02/20/2008	MAIL NON-FINAL REJECTION	92		-1
29	02/15/2008	NON-FINAL REJECTION			
24	09/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	08/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	07/26/2007	PG-PUB ISSUE NOTIFICATION			
19	07/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	09/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/20/2006	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

15	09/20/2006	FILED			
11	06/25/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	05/15/2007	APPLICATION DISPATCHED FROM OIPE			
9	09/20/2006	371 COMPLETION DATE			
8	04/24/2007	SENT TO CLASSIFICATION CONTRACTOR			
7	04/24/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	09/20/2006	ADDITIONAL APPLICATION FILING FEES			
5	09/20/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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K. Karel Lambert
RPA 51912
PO Box 4063
Renton WA 98057-4063

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JUN 03 2009

OFFICE OF PETITIONS

In re Application of

Amy Clarke

Application No. 61/038,741

Filed: March 22, 2008

Attorney Docket No. ACLA2008MA1

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 22, 2008.

The petition is **dismissed**.

This application was held abandoned June 3, 2008, after no reply was received to the Notice to File Missing Parts of Provisional Application mailed April 2, 2008. The notice set forth a shortened period of reply of two months from its mailing date and required payment of the filing fee and a surcharge for the late payment of the same. No response was received within the allowable period and the application became abandoned on June 3, 2008. A Notice of Abandonment was mailed December 9, 2008. The instant petition was filed on December 22, 2008. Petitioner maintains that the filing fee for the application was paid on March 22, 2008, and that the Notice to File Missing Parts of Provisional Application was not received.

A review of the Electronic Acknowledgement Receipt that accompanied the petition reveals that a filing fee of $105.00 was paid on March 22, 2008, in application 61/038,748. Further review reveals that application 61/038,748 is also being prosecuted by petitioner and that application also required payment of a filing fee. Accordingly, the Electronic Acknowledgement Receipt filed with the instant petition is not *prima facie* evidence that the filing fee was timely paid in application 61/038,741. The petition is dismissed accordingly.

Even if petitioner is able to establish that the filing fee was timely paid on March 22, 2008, petitioner has not established that a timely response to the Notice to File Missing Parts of Provisional Application was filed. Applicant was obligated to file a timely response to the Notice, notwithstanding that it may have been issued in error. Section 711.02 of the Manual of Patent Examining Procedure, citing 37 CFR 1.135(a) states, in pertinent part, that, "...an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))." In this case, applicant failed to respond to the Notice mailed April 2, 2008, and the application was properly held abandoned on June 3, 2008.

If petitioner is asserting that the Notice was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The renewed petition must be accompanied by prima facie evidence that the filing fee was timely paid and/or the statements described above and a copy of petitioner's master docket record, or, if a master docket does not exists, the renewed petition should so state.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN FRANCISCO, CA 94111-3834

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SEP 11 2008

In re Application of :
Kiron MALWANKAR, et al :
Application No. 61/039,321 : DECISION ON PETITION
Filed: March 25, 2008 : TO WITHDRAW
Attorney Docket No. 026529-000900US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2008.

The request is **NOT APPROVED.**

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

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PETE KIRKPATRICK, APRIUS, INC.
440 NORTH WOLFE ROAD
SUNNYVALE, CA 94085

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OIW Aug-08

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

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AUG 2 1 2008

In re Application of :
Gerald Peter Jackson :
Application Number: 61/039682 : ON PETITION
Filing Date: 03/26/2008 :
Attorney Docket Number: HBar-P1-08 :

This is a decision on the paper filed on July 2, 2008, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified provisional application be accorded a filing date of March 26, 2008.

The petition is **GRANTED**.

The application was filed on March 28, 2008, without drawings. Accordingly, on May 12, 2008, The Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application stating that the application had been deposited without drawings.

On July 2, 2008, the present petition was filed. Petitioner argue that the drawings were incorporated by reference from a prior-filed application.

At the outset, it is noted that 37 CFR 1.53 states that no amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to a provisional application after the filing date thereof. Additionally, a provisional application is not entitled to the right of priority under 35 U.S.C. 119 or 365(a) or § 1.55, or to the benefit of an earlier filing date under 35 U.S.C. 120, 121 or 365(c) or § 1.78 of any other application.

Nevertheless, as stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As a review of the official file reveals that the application includes one (1) method claim. Therefore, this application contains disclosure relating to a process or method.

In view of the above, the "Notice" mailed May 12, 2008, was mailed in error and is hereby withdrawn.

The application will be processed using the application papers present on filing on March 26, 2008.

The application is accorded a filing date of March 26, 2008, without drawings as a part of the original disclosure. The petition fee paid of $400.00 will be credited to counsel's deposit account.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of March 26, 2008, using only the application papers filed on that date.

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

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

OIPE IAP22
MAR 12 2009
PATENT & TRADEMARK OFFICE

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Vladimir HANES — Group Art Unit N/A

Serial No.: 61/040,494 — Examiner: N/A

Filed: March 28, 2008

For: NEW DROSPIRENONE/17ß-ESTRADIOL REGIMEN, PHARMACEUTICAL COMBINATION PRODUCT AND KIT FOR PERFORMING THIS REGIMEN

REQUEST FOR ADDITION OF OMITTED INVENTORS UNDER 37 C.F.R. § 1.48(d)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Services as First Class Mail in an envelope addressed to: Commissioner of Patents, P O Box 1450, Alexandria, VA 22313-1450 on: 3/12/09

Name: A. ZELANO

Signature:

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

Sir:

It is respectfully requested that the original inventorship in the above-identified provisional application be amended to add:

Hartmut Blode of Berlin, Germany
Rolf Schuermann of Teltow, Germany
Bernd Duesterberg of Oberkraemer/OT Baerenklau, Germany, and
Joachim Marr of Berlin, Germany

The above-listed inventor(s) were omitted through error without any deceptive intention on the part of the omitted inventor(s).

Authorization is hereby granted to charge the processing fee of $50.00 set forth in § 1.17(q) to deposit account no. 13-3402.

Respectfully submitted,

/Anthony J. Zelano/

Attorney for Applicants

03/12/2009 HVUONG1 00000010 133402 61040494
01 FC:1807 50.00 DA

BAYSCH-0029-V07

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: BAYSCH-0029-V-07
Date: March 9, 2009

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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine CA 92614-6232

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Earl Votolato	:	
Application No. 61/040,568	:	DECISION GRANTING PETITION
Filed: March 28, 2008	:	
Attorney Docket No. 019502003PRO	:	

This is a decision on the petition filed August 11, 2008, requesting that the above-identified provisional application be accorded a filing date of March 28, 2008.

The application was deposited on March 28, 2008, with a provisional application cover letter and two sheets of drawing. On July 24, 2008, the Office of Patent Application Processing mailed a Notice requiring a specification in compliance with 35 U.S.C. 112, first paragraph, and stating that the filing date would be the date of receipt of the omitted specification.

In response, on August 11, 2007, the present petition was filed. Petitioner argues the application is entitled to a filing date of March 28, 2008, because the title of the invention and the drawings are sufficient for one skilled in the art would be able to discern the invention.

On petition, the USPTO will take the drawings themselves as sufficient to satisfy the specification requirement for a provisional application, assuming the drawings are sufficient to provide "written description" support for some invention. In certain circumstances drawings alone may be sufficient to provide a written description of an invention as required by 35 U.S.C. 112. *Vas- Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 19 USPQ2d 1111 (Fed. Cir. 1991). Since there was something present on March 28, 2008, which can be construed as a written description, the present provisional application may be accorded the requested filing date.

The petition is granted.

However, this decision should not be construed as an indication that any particular invention disclosed in the present provisional application has been disclosed in the manner required by 35 U.S.C. 112, first paragraph. Applicants are reminded that in order for a nonprovisional application to be entitled to the benefits of a prior provisional application filing date, the invention being claimed in the nonprovisional application must be disclosed in the provisional application in the manner provided by the first paragraph 35 U.S.C. 112, including a recitation of the "best mode." 35 U.S.C. 119(e).

The petition fee will be refunded in due course.

The application is being returned to the Office of Patent Application processing for further processing as a provisional application for patent with a filing date of March 28, 2008, and indication on the file wrapper label that no specification was present on filing.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Francis Trinh
P.O. Box 61762
Sunnyvale CA 94088

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MAR 1 2 2009

OFFICE OF PETITIONS

In re Application of :
Francis BA Trinh. :
Application No. 61/040,668 : ON PETITION
Filed: March 30, 2008 :
Attorney Docket No. :

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

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

This application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Provisional Application mailed April 8, 2008, which set a shortened period for reply of two months from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on June 9, 2008. A Notice of Abandonment was mailed December 10, 2008.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (1), (2), and (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that petitioner lost the filing receipt for the application and was not aware that further response was necessary.

The aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

Relative to item (1), the Notice to File Missing Parts of Provisional Application required petitioner to file a provisional coversheet and pay a surcharge for the late filing of the same. In order for the subject petition to be considered grantable, it must be accompanied by a proper response to the Notice to File Missing Parts of Provisional Application. The renewed petition, or petition under 37 CFR 1.137(b), must be accompanied by a proper response to this notice.

Relative to item (2), the fee for the instant petition is $270.00, but the instant petition was only accompanied by $255.00. The renewed petition must be accompanied by the outstanding portion of the petition fee in the amount of $15.00.

Relative to item (3), unavoidable standard requires that petitioner establish, by evidentiary showing, that petitioner acted reasonably and prudently relative to the prosecution of the application and despite petitioner's actions the application was unavoidably abandoned. An inadvertent error or lack of understanding of the patent prosecution process, as asserted by petitioner, is more akin to unintentional delay as set forth in 37 CFR 1.137(b), but does not satisfy the unavoidable standard as intended by 37 CFR 1.137(a). The petition is dismissed accordingly.

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

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

---

specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SEP 25 2008

OFFICE OF PETITIONS

In re Application of :
Timothy D. Kosa et al. :
Application No. 61/041,302 : DECISION DISMISSING PETITION
Filed: April 1, 2008 :
Attorney Docket No: H-US-00970PRO :

This decision is in response to the petition filed June 18, 2008, under 37 CFR 1.53 in response to the Notice of Omitted Items mailed May 12, 2008. The petition is treated under 37 CFR 1.182.

The petition is DISMISSED.

The application was filed April 1, 2008, however, on May 12, 2008, the Office of Data Management mailed a "Notice" stating that the application had been accorded a filing date Of April 1, 2008, but that Figure 3a described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that no Figures were missing on April 1, 2008 and provide copies of the drawings submitted upon application to show that three sheets of drawings were in fact filed.

A review of the file reveals that the drawings submitted with the instant petition are identical to the drawings submitted upon application. A further review reveals that on page 2 of 3, the drawings are labeled FIGURE 3, FIGURE 3c and FIGURE 4.

It is obvious therefore that no drawings were actually missing on April 1, 2008. Rather, the figures were mislabeled, as a result of the applicants' filing error. Perhaps it is that the figure labeled “Figure 3c” was intended to be “Figure 3a” as described in the specification. However, the "Notice" mailed on May 12, 2008 was correct in stating that Figure 3a described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Petitioners' deposit account no. 21-0550 has been charged in the amount of $400.00 for the petition fee.

Petitioner, however, is reminded that no amendment/corrections, other than to

make the provisional application comply with the patent statute and all applicable regulations, may be made to a provisional application after the filing date of the provisional application. See 37 CFR 1.53(c); 37 CFR 1.121(j).

As well, the option to take the later filing date, *i.e.*, the date of submission of the omitted page(s) or drawing(s), is not available.[1] As such, if petitioners desire to have the page containing Figure 3c to reflect that Figure 3c should be Figure 3a, petitioners should simply file a new completed provisional application.

The application will be processed and examined using the application papers filed on April 1, 2008.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of April 1, 2008, using the application papers filed on that date.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1]MPEP 601.01(d). In view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of submission in provisional applications. The applicant should simply file a new completed provisional application. Id.

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

Ming-Chiang Li
11415 Bayard Drive
Mitchellville MD 20721

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Li :
Application No. 61/041,514 : ON PETITION
Filed: April 1, 2008 :
For: Tuning Replica Generation Methods and :
Apparatus For Their Most Advantageous
Performance In Processing Transient Signals

This is in response to the communication, filed December 12, 2008, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On April 8, 2008, the Office mailed a Notice to File Missing Parts of A Provisional Application ("Notice"), which set a two month shortened statutory period to reply. The application became abandoned on June 9, 2008, for failure to submit a timely response to the Notice. On December 10, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the April 8, 2008 Notice. Specifically, petitioner states that he did not receive a copy of the Notice to File Missing Parts.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the April 8, 2008 Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of

showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the April 8, 2008 Notice, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 8, 2008, to demonstrate nonreceipt of the April 8, 2008 Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the April 8, 2008 Notice was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after April 8, 2008; the period when he would have received the April 8, 2008 Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the April 8, 2008 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the April 8, 2008 Notice accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR

1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Notice dated April 8, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/041,514	04/01/2008	Ming-Chiang Li	

CONFIRMATION NO. 7269

Ming-Chiang Li
11415 Bayard Drive
Mitchellville, MD 20721

FORMALITIES LETTER

OC000000029268343

Date Mailed: 04/08/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/tketsela/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

PTO/SB/64 (02-09)
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 displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ming-Chiang Li
11415 Bayard Drive
Mitchellville MD 20721

MAILED

JUN 12 2009

OFFICE OF PETITIONS

In re Application of :
Li :
Application No. 61/041,514 : ON PETITION
Filed: April 1, 2008 :
For: Tuning Replica Generation Methods and :
Apparatus For Their Most Advantageous
Performance In Processing Transient Signals

This is in response to the renewed petition, filed June 5, 2009 to withdraw the holding of abandonment.[1]

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On April 8, 2008, the Office mailed a Notice to File Missing Parts of A Provisional Application ("Notice"), which set a two month shortened statutory period to reply. The application became abandoned on June 9, 2008, for failure to submit a timely response to the Notice. On December 10, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the April 8, 2008 Notice. Specifically, petitioner states that he did not receive a copy of the Notice to File Missing Parts.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the April 8, 2008 Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

[1] It is noted that the petition is a copy of a renewed petition, which was timely submitted on April 22, 2009.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; **where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the April 8, 2008 Notice, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 8, 2008, to demonstrate nonreceipt of the April 8, 2008 Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available.** Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the April 8, 2008 Notice was not found. **Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after April 8, 2008; the period when he would have received the April 8, 2008 Notice.**

In the present petition, petitioner did not provide documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the April 8, 2008 Notice. Petitioner however, has explained part of his system and has stated he searched for the Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

Any renewed petition must include the above information, which was not previously submitted. If Petitioner cannot or does not wish to submit the information required for a grantable petition, a petition under 37 CFR 1.137(b) and accompanying fee should be submitted.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

Ming-Chiang Li
11415 Bayard Drive
Mitchellville MD 20721

COPY MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Li :
Application No. 61/041,514 : ON PETITION
Filed: April 1, 2008 :
For: Tuning Replica Generation Methods and :
Apparatus For Their Most Advantageous
Performance In Processing Transient Signals

This is in response to the renewed petition, filed July 2, 2009 to withdraw the holding of abandonment.

The petition is **GRANTED**.

On April 8, 2008, the Office mailed a Notice to File Missing Parts of A Provisional Application ("Notice"), which set a two month shortened statutory period to reply. The application became abandoned on June 9, 2008, for failure to submit a timely response to the Notice. On December 10, 2008, the Office mailed a Notice of Abandonment.

All of the requirements have been met.

The $25 surcharge is required because applicant failed to submit the $105.00 filing fee on the April 1, 2008 filing date of the provisional application. Thus, the submission of the filing fee on April 2, 2008 required the $25.00 surcharge.

Petitioner is reminded subject to the provisions of 35 U.S.C. 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances. As such, the instant provisional application expired on April 1, 2009.

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

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 0 1 2009

OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

In re Application of :

BAILEY, Christopher E. :
Application No. 61/041,556 : DECISION ON PETITION
Filed: April 01, 2008 : TO WITHDRAW
Attorney Docket No. **21397/0209326-US0** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John Branch on behalf of all attorneys of record who are associated with customer No. 07278. All attorneys/agents associated with the Customer Number 07278 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Christopher Bailey 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: **CHRISTOPHER E. BAILEY**
LEAP MARKETING TECHNOLOGIES INC.
1819 HARBOUR DRIVE
COQUITLAM BC V3J 5W4

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

William J. Caniano
3220 West Ina Road #18204
Tucson AZ 85741

COPY MAILED

SEP 23 2008

In re Application of :
Caniano :
Application No. 61/041,614 : ON PETITION
Deposited: April 2, 2008 :
Attorney Docket No. N/A :
For: TEXAS HOLD 'EM CRISS CROSS

This is in response to the communication, filed July 23, 2008. Petitioner alleges non-receipt of a Notice of Incomplete Provisional Application. Therefore, the petition will be treated under 37 CFR 1.181, as a petition to withdraw the termination of proceedings. In addition, the correspondence will be treated under 37 CFR 1.53(e) as a petition for filing date.

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

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

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that proceedings concerning the above-identified application were terminated for failure to submit a reply to the April 11, 2008 Notice of Incomplete Provisional Application, which set a two month period for reply. No reply being received, the Office terminated proceedings on June 12, 2008. A Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed on July 17, 2008.

Petitioner alleges that the April 11, 2008 Notice was not received at the correspondence address of record.

A review of the record indicates no irregularity in the mailing of the April 11, 2008 Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the April 11, 2008 Notice was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 11, 2008, to demonstrate non-receipt of the April 11, 2008 Notice. **Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available.** Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the April 11, 2008 Notice was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after April 11, 2008; the period when he would have received the Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the April 11, 2008 Notice. Therefore, the petition to withdraw the termination of proceedings is **dismissed**. Please note that the April 11, 2008 Notice mailed in Application No. 61/041,614 only addressed the lack of drawings. There was no mention of a cover sheet.

Petitioner next requests that the application be accorded a filing date of April 2, 2008. The April 11, 2008 Notice of Incomplete Provisional Application states that any assertions that the application is entitled to a filing date without the items required in the Notice must be made by way of petition. The petition fee is $400.00. Petitioner has not paid the petition fee. The constructive petition under 37 CFR 1.53(e) for filing date is **dismissed**. Please submit the $400.00 petition fee with a reconsideration petition. **A request for refund should be included with the reconsideration petition.**

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Yufeng Liu :
Application No. 61/041,619 : ON PETITION
Filed: April 2, 2008 :
Attorney Docket No. **64046US002**

This is a decision on the petition under 37 CFR 1.182, filed February 27, 2009, to change the name of the sole named inventor cited on this application in USPTO records[1].

The petition is **granted.**

The name of the sole inventor for the above-cited application is changed to "Yufeng Liu."

A corrected filing receipt is enclosed.

The fee for the instant petition is $400.00. See 37 CFR 1.182. See also 37 CFR 1.17(f). Deposit account 13-3723 will be charged an additional $270.00, accordingly.

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

[1] It is noted that the name of the sole inventor was changed in USPTO records on March 24, 2009, and corrected filing receipt mailed without the benefit of a decision on the instant petition. It is noted, however, that a petition under 37 CFR 1.182 is required to make this change. Accordingly, a decision on the petition is made herewith.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
61/041,619	04/02/2008		210	64046US002		

CONFIRMATION NO. 7617

CORRECTED FILING RECEIPT

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Date Mailed: 03/25/2009

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Yufeng Liu, Woodbury, MN;

Power of Attorney:
Sandra Nowak--53666

If Required, Foreign Filing License Granted: 04/04/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/041,619**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
Title

TRAFFIC SIGNAL SYSTEMS

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

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DEC 11 2008

In re Application of :
Paul Cruz :
Application No. 61/041,895 : DECISION ON PETITION
Filed: April 2, 2008 :
Attorney Docket No: ISDV.001PR

This is a decision on the petition filed June 30, 2008, to accord the above-identified application a filing date of April 2, 2008.

The petition is **GRANTED** to the extent indicated herein.

Application papers in the above-identified application were filed on April 2, without a specification. Accordingly, on April 30, 2008, the Office of Initial Patent Examination mailed applicants a "Notice of Incomplete Provisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without a specification. In response, applicant filed the instant petition.

Petitioner asserts that drawings alone can provide the written description, and requests that the application be accorded a filing date of April 2, 2008.

Petitioner's arguments have been considered, and based on the facts of this case, are found to be persuasive. The provisional application disclosure is accepted for what it shows and is written in the drawings.

Accordingly, the petition is **granted** to the extent that the application will be accorded the April 2, 2008 filing date with no specification as a part of the original disclosure of the application.

However, as the present petition was not due to USPTO error (the Notice was correct in that a specification was missing), the petition fee will not be refunded.

The matter is being forwarded to the Office of Initial Patent Examination for correction of the filing date to April 2, 2008, using the provisional application disclosure filed on that date.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

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AUG 2 8 2008

In re Application of
Thomas Wagner
Application No. 61/042,102
Deposited: April 3, 2008
Attorney's Docket No. GTE-08-1144P

ON PETITION

This is a decision on the filing date petition, filed August 1, 2008, requesting that the above-identified application be accorded a filing date of April 3, 2008 which is being treated under 37 CFR 1.53.

The application was deposited on April 3, 2008 however, on July 24, 2008, the Office of Data Management mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been accorded because the application was deposited without a specification.

In response, petitioner timely responds with the instant petition and argues that the application was filed with in an incorrect Provisional Application Coversheet, that the Coversheet incorrectly identified the contents of the application to include drawings but should have indicated the filing of a Specification.

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

In the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) the records of the Office (e.g. the file of the application) is the official record of the Office and will be relied upon as to what was filed.

While the petition claims that the coversheet was wrong, the application as filed did include drawings and there is no proof that a Specification was filed, irrespective of what the coversheet noted or the corrected coversheet notes.

In view thereof, petitioner's request that the application be accorded a filing date of April 3, 2008, must be **DISMISSED**. Petitioner is advised that the Notice of Incomplete Application was therefore correct in noting that the Specification was missing and thus, the application cannot be accorded a filing date until a Specification is filed or proof that the Specification was properly submitted upon filing. In the alternative to filing proof, a filing date will be accorded upon receipt of the specification.

This application can receive no further processing until such time as a filing date has been accorded. Petitioner may file a renewed petition under 37 CFR 1.53.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PHILADELPHIA PA 19103

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Thomas Wagner :
Application No. 61/042,102 : ON PETITION
Filed: April 3, 2008 :
Attorney's Docket No. GTE-08-1144P :

This is a decision on the request for reconsideration, filed October 21, 2008, requesting that the above-identified application be accorded a filing date of April 3, 2008 which is being treated under 37 CFR 1.53.

The petition is **GRANTED**.

The application was deposited on April 3, 2008 however, on July 24, 2008, the Office of Data Management mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been accorded because the application was deposited without a specification. In response, petitioner timely responded with a petition and argued that the application was filed with in an incorrect Provisional Application Coversheet, that the Coversheet incorrectly identified the contents of the application to include drawings but should have indicated the filing of a Specification.

While the petition claimed that the coversheet was wrong, there was no proof that a Specification was filed and thus the petition was dismissed in a decision mailed August 28, 2008.

Comes now petitioner with the instant request for reconsideration arguing that the drawings filed April 3, 2008 were intended as the Specification and not as drawings.

A review of the two sheets of drawings, now noted that were intended to be the Specification, reveals that the written description, in accordance with 35 U.S.C. § 112 paragraph 1, was set forth on the two drawing sheets filed with the application thus entitling the application to a filing date of April 3, 2008.

Pursuant to 35 U.S.C. 111(b)(1)(A);(B), in order to obtain a filing date, a provisional application must provide the specification required by 35 U.S.C. 112 ¶ 1, and a drawing as prescribed by 35 U.S.C. 113. The specification shall contain a written description of

the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

RELEVANT STATUTES, REGULATIONS AND PROCEDURE

35 U.S.C. 111(b) provides, in pertinent part, that:

(1) AUTHORIZATION. —A provisional application for patent shall be made or authorized to be made by the inventor, except as otherwise provided in this title, in writing to the Director. Such application shall include —

(A) a specification as prescribed by the first paragraph of section 112 of this title; and

(B) a drawing as prescribed by section 113 of this title.

(2) CLAIM. —A claim, as required by the second through fifth paragraphs of section 112, shall not be required in a provisional application.

...

(4) FILING DATE. —The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

35 U.S.C. 112, first paragraph, provides that:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

37 C.F.R. § 1.53(c) further provides that:

> The filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.
>
> (1) A provisional application must also include the cover sheet required by § 1.51(c)(1), which may be an application data sheet (§ 1.76), or a

> cover letter identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under paragraph (b) of this section.

MPEP 601.01(b) provides that:

> A provisional application will be given a filing date in accordance with 37 CFR 1.53(c) as of the date the written description and any necessary drawings are filed in the Office. The filing date requirements for a provisional application set forth in 37 CFR 1.53(c) parallel the requirements for a nonprovisional application set forth in 37 CFR 1.53(b), except that no claim is required. Amendments, other than those required to make the provisional application comply with applicable regulations, are not permitted after the filing date of the provisional application.

OPINION

Petitioner does not dispute that as filed the application did not include, other than the drawings and cover sheet, a description in writing regarding the claimed invention.

It is the practice of the Office to accord a filing date to an application that appears to comply with the requirements for according a filing date. Inasmuch as drawings alone may be sufficient to provide the written description requirement of § 112, first paragraph, and the instant application contains drawings and claims are not required, the instant provisional application appears to comply with the requirements for according a filing date. It is not necessary to now determine whether this provisional application will adequately support any non-provisional application claiming the benefit of its filing date. In this instance, the drawings will be construed as the written description required by 35 U.S.C. § 112, first paragraph.

CONCLUSION

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

The provisional application file is being returned to the Office of Patent Application Processing for **correction of the filing date to April 3, 2008**.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of :
Shailaja RABINDRAN, et al :
Application No. 61/043,588 : DECISION ON PETITION
Filed: April 9, 2008 : TO WITHDRAW
Attorney Docket No. 2002645-0149 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Brenda Herschbach Jarrell on behalf of the attorneys of record associated with Customer No. 24280.

The attorneys of record associated with Customer No. 24280 have been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SHAILAJA RABINDRAN
347 MATTHEW FLOCCO DRIVE
NEWARK, DE 19713

cc: GWILYM ATTWELL, FISH & RICHARDSON
222 DELAWARE AVENUE, 17TH FLOOR
WILMINGTON, DE 19899-1114

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
61/043,588	04/09/2008	Shailaja Rabindran	2002645-0149

CONFIRMATION NO. 5625

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 05/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2009.

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

/dcgoodwyn/

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

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

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MAR 05 2010

OFFICE OF PETITIONS

In re Application of Baars :
Application No. 61/043,785 : Decision on Petition
Filing Date: April 10, 2008 :
Attorney Docket No. RGP0366USP2 :

This is a decision on the petition filed June 11, 2008, requesting t the provisional application be accorded a filing date of April 10, 2008. The Office regrets the delay in the issuance of the instant decision.

The petition is **granted**.

The application was filed April 10, 2008.

The specification filed on April 10, 2008, described drawings containing Figures 1-6, but no drawings were filed on April 10, 2008.

On May 12, 2008, the Office mailed a Notice of Incomplete Nonprovisional Notice indicating the application was filed without drawings. The Notice stated the application had not been accorded a filing date and that the filing date would be the date of receipt of drawings.

It is the practice of the PTO to treat a provisional application that contains at least some disclosure directed to a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) 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)....
>
> A ... provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the

specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

The Office has determined the provisional application contains at least some disclosure directed to a process or method. For example, paragraph [0001] of the specification states, with emphasis added, "This invention generally relates to circuit subassemblies, *methods* of manufacture of the circuit subassemblies, and articles formed thereof, including circuits and multilayer circuits."

The Office should have accorded the application a filing date of April 10, 2008, and mailed a Notice of Omitted Items pursuant to MPEP 601.01(g) rather than a Notice of Incomplete Application. The Notice of Omitted Items would have informed petitioner a filing date had been accorded and that the drawing figures referred to in the specification appeared to be missing. Therefore, the Notice mailed May 12, 2008, was mailed in error and is hereby withdrawn.

In view of the prior discussion, the application will be accorded the April 10, 2008 filing date without drawings as requested in the petition.

It should be noted that the claims filed in any subsequent non-provisional application will determine whether or not drawings are necessary for that application since the "subject matter sought to be patented" is determined by the claims in an application. Therefore, the instant decision should not be construed as a determination that drawings will or will not be necessary for a filing date for any future non-provisional applications.

The petition fee has been credited back to petitioner's deposit account.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of April 10, 2008, and for indication in USPTO records that "0" sheets of drawings were present on filing.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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APR 0 8 2009

OFFICE OF PETITIONS

INTERNATIONAL SPECIALTY PRODUCTS
WILLIAM J. DAVIS, ESQ.
1361 ALPS ROAD
WAYNE, NJ 07470

In re Application of :
Kaytan Hasan :
Application No. 61/043,929 : ON PETITION
Filed: April 10, 2008 :
Attorney Docket No. 3132 :

This is a decision on the petition under 37 CFR 1.137(b), filed by January 29, 2009, to revive the above-identified application.

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 Mr. John F. Kane 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. Kane desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Kane; however, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed May 2, 2008. The notice set a two-month period to respond and required (1) a provisional application cover sheet under 37 CFR 1.51(c)(1), or an Application Data Sheet (ADS) identifying either the city and state or city and foreign country of the residence of each inventor and (2) the surcharge as set forth in 37 CFR 1.16(g) of $50. A Notice of Abandonment was mailed on January 7, 2009. On January 29, 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 an ADS and the $50 surcharge; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1] Accordingly, the failure to timely reply to the Notice of May 2, 2008 is accepted as being unintentionally delayed.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Subject to the provisions of 35 U.S.C. § 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN F. KANE
P.O. BOX 8801
2000 COURTHOUSE PLAZA, N.E.
DAYTON, OH 45402

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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JUN 0 3 2009

OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

In re Application of :
Christopher James Danek et al :
Application No. 61/043,998 : DECISION ON PETITION
Filed: 61/043,998 : TO WITHDRAW
For: ATHERECTOMY DEVICES AND METHODS : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 16, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Sanjay Bagade and the attorneys associated with Customer No. 40518 do 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 571-272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DAN RYAN
RYAN KROMHOLZ & MANION, S.C.
3360 GATEWAY ROAD
BROOKFIELD WI 53045

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.

Grayson & Kubli, PC
8605 Westwood Center Drive, Suite 410
Vienna VA 22182

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
Buchanan et al. :
Application No. 61/044,184 : DECISION ON PETITION
Filed: April 11, 2008 : PURSUANT TO
Attorney Docket No. Lightning-002-PRV : 37 C.F.R. § 1.181(A)
Title: METAL-COMPOSITE BONDING METHODS AND COMPOSITIONS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on June 16, 2009.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 19, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 20, 2008. A notice of abandonment was mailed on April 16, 2009.

ANALYSIS

With this petition, Petitioner has alleged that a response was filed on August 22, 2008, and that a two-month extension of time was included so as to make timely the response. Petitioner has further included a copy of this response, along with an Electronic Acknowledgement Receipt dated August 22, 2008.

The electronic file has been reviewed, and a copy of this response has been located in the same. It is clear that both a response to the notice of May 19, 2008 and a two-month extension of time was received on August 22, 2008. Moreover, Office

records reflect the receipt of the following fees on August 22, 2008:

- the filing fee;
- the fee that is associated with the late submission of the filing fee, and;
- the fee that is associated with the filing of petition for a two-month extension of time.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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

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

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

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[1]

Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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AUG 31 2009

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

In re Application of :

SULLIVAN, Sean M. et al. :
Application No. 61/044,338 : DECISION ON PETITION
Filed: April 11, 2008 : TO WITHDRAW
Attorney Docket No. **026482-002600US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2008.

The request is **NOT APPROVED.**

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on December 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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).

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: **DLA PIPER LLP (US)**
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

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Joseph Braha
2097 East 4th St
Brooklyn NY 11223

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Braha
Application No. 61/044,418
Filed: April 11, 2008
Attorney Docket No. N/A
For: DIGITAL IMAGE AQUARIUM

ON PETITION

This is a decision on the correspondence of December 29, 2008 requesting withdrawal of the holding of abandonment in the above-identified application. The correspondence will be treated as a feeless petition under 37 CFR 1.181.

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

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

The above-identified application is held abandoned for failure to timely submit the required $105.00 basic filing fee and the $25.00 surcharge within two months of the mailing of the Notice to File Missing Parts of Provisional Application, mailed April 17, 2008. Accordingly, the Office considers the above-identified application abandoned as of June 18, 2008. A Notice of Abandonment was mailed on December 19, 2008.

Petitioner asserts that he paid the $105.00 basic filing fee on April 11, 2008 by way of a credit card authorization transmitted via facsimile. However, petitioner has not provided adequate evidence to support this assertion. **The Office has no record of receiving such a transmission.**

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto; (2) a statement which attests on a personal knowledge basis to the previous timely transmission; (3) a copy of the sending unit's report confirming transmission may be used to support this statement. (4) Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

A review of the correspondence allegedly successfully transmitted to the Office on April 11, 2008 reveals that there is no certificate of transmission affixed to the correspondence. It is

noted that the actual credit card authorization form is missing. Thus, petitioner has not provided adequate evidence under 37 CFR 1.8(b) to warrant withdrawal of the holding of abandonment. It is noted that petitioner has not submitted an auto-reply facsimile transmission from the Office, showing that the Office received correspondence from petitioner on April 11, 2008.

Even if the Office had received the authorization, it was applicant's responsibility to reply to the April 17, 2008 Notice to File Missing Parts of Provisional Application in a timely manner. Even if an applicant believes a Notice/Office letter is mailed in error, an application must respond to it in order to avoid abandonment.

It is noted that petitioner asserts that only a filing receipt was received in the envelope mailed on April 17, 2008. (Third paragraph of December 29, 2008 letter). An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed.

A review of the record indicates no irregularity in the mailing of the April 17, 2008 Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice of April 17, 2008, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 17, 2008, to demonstrate nonreceipt of the April 17, 2008 Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the April 17, 2008 Notice was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after April 17, 2008; the period when he would have received the April 17, 2008 Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the April 17, 2008 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the April 17, 2008 Notice accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

If petition is unable to provide adequate evidence of non-receipt, petitioner should consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: April 17, 2008 Notice to File Missing Parts of Provisional Application

Blank form – Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/044,418	04/11/2008	Joseph Norman Braha	

CONFIRMATION NO. 9094

Joseph Braha
2097 East 4th St
Brooklyn, NY 11223

FORMALITIES LETTER

OC000000029432659

Date Mailed: 04/17/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

An application number and filing date have been accorded to this provisional application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit **$105** *to complete the basic filing fee for a small entity.*

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a small entity
- **$105** Statutory basic filing fee.
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/mduong/

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

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Alexandria, VA 22313-1450
www.uspto.gov

Shane James Lynch
1672 Honeysuckle Road
Livermore CA 94551

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Lynch :
Application No. 61/044,716 : ON PETITION
Filed: April 14, 2008 :
Attorney Docket No. N/A :
For: LIQUID SUBMERSED
ILLUMINATING FIBER OPTIC HANDLE
APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed December 31, 2008, to withdraw the holding of abandonment in the above-identified application.

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

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

A Notice to File Missing Parts of Provisional Application was mailed on April 21, 2008 and required applicant to submit the basic filing fee of $105.00 and the late filing fee surcharge of $25.00 within two months of the mail date of the Notice. No extensions of time being obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, the application became abandoned on June 22, 2008. A Notice of Abandonment was mailed on December 24, 2008.

Petitioner requests withdrawal of the holding of abandonment because applicant purportedly paid the $105.00 filing fee when the application was filed on April 14, 2008. Therefore, petitioner argues that the Notice of April 21, 2008 was mailed in error and the $105.00 and the $25.00 late surcharge is not owed. Petitioner states that he spoke with an Office employee named, Paul, on April 24, 2008 and Paul told him to send in proof of payment and that the application would be corrected and the payment properly applied. Petitioner allegedly faxed a memorandum accompanied by evidence of payment of the $105.00 to Paul on April 28, 2008. The Office has no record of receiving the April 28, 2008 facsimile transmission.

Petitioner is informed that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during a telephone conversation on April 24, 2008 cannot nullify the April 21, 2008 Notice, which required timely

submission of fees to avoid abandonment of the application. Any facsimile transmissions to the Office must be directed to the centralized facsimile number. Any facsimile transmissions directed to individual Office employees will be treated as courtesy transmissions, not official filings with the Office. The Office has no record of receiving the April 24, 2008 facsimile transmission. Thus, petitioner failed to timely reply to the April 21, 2008 Notice and the application is abandoned.

The Office has no record of receiving a credit card payment of $105.00 on April 14, 2008 **for Application No. 61/044,716**. The undersigned conducted an independent investigation and discovered that applicant filed another application on April 14, 2008 – Application No. 61/044,727. It is noted that Application No. 61/044,727 was filed minutes after Application No. 61/044,716. Application No. 61/044,727 was accompanied by a credit card payment of $105.00. Application No. 61/044,716 was not accompanied by any fees. It appears that applicant filed a duplicate application, perhaps unbeknownst to him, on April 14, 2008.

While Application No. 61/044,716 is abandoned, it appears that the duplicate application, Application No. 61/044,727 is a complete application. Any future filed nonprovisional application may claim benefit of Application No. 61/044,727, which has the same filing date as Application No. 61/044,716.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment in Application No. 61/044,716 is **dismissed**.

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

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

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

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

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 24 2009

OFFICE OF PETITIONS

In re Application of :
Chris J. CRAWFORD :
Application No. 61/045,094 : DECISION ON PETITION
Filed: April 15, 2008 : TO WITHDRAW
Attorney Docket No. 004212.6 FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 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 by Customer Number 35979, as indicated.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: APPLIED MICRO TECHNOLOGY, INC.
500 WEST WHITESTONE, SUITE 104
CEDAR PARK, TX 78613

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.
61/045,127		KENDRA LYNETTE MATTOX		1948

7590 10/02/2008

KENDRA LYNETTE MATTOX
100 SOUTH MEYERS DR. APT#904
LAFAYETTE, LA 70508

EXAMINER	
ART UNIT	PAPER NUMBER
MAIL DATE	DELIVERY MODE
10/02/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☑ Petition fee was not paid.

The application **has/will be published** as scheduled.

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

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/045,127		KENDRA LYNETTE MATTOX		1948

7590 10/02/2008

KENDRA LYNETTE MATTOX
100 SOUTH MEYERS DR. APT#904
LAFAYETTE, LA 70508

EXAMINER	
ART UNIT	PAPER NUMBER
MAIL DATE	DELIVERY MODE
10/02/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 09 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bauer, et al. :
Application No. 61/045,417 :
Filed: April 16, 2008 :
Attorney Docket No. 022104-003200US :
For: INHIBITORS OF PROTEIN KINASES

This is a decision on the petition filed July 14, 2008, requesting, in effect, withdrawal of the Notice of Omitted Items in a Provisional Application (Notice), mailed May 13, 2008. The petition will be treated under 37 CFR 1.53(e).

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

The application was filed on April 16, 2008. However, on May 13, 2008, the Office of Patent Application Processing mailed a Notice stating that the application had been accorded a filing date of April 16, 2008, and advising applicants that Figures 2-6 described in the specification appeared to have been omitted.

In response, the present petition was timely filed.

The petition does not allege and is not accompanied by any evidence that any sheets of drawings containing the labels "FIG. 2", "FIG. 3", "FIG. 4", "FIG. 5", and "FIG. 6" were present in the Office on April 16, 2008. While the Brief Description of the Drawings lists Figures 1-6, the pertinent drawing figures in the application file are labeled "Figure 1", "Table 1", "Table 2", "Table 3", "Table 4", and "Table 5".

Petitioners have stated that all intended drawings were filed on April 16, 2008. However, it is apparent that petitioners referred to the drawing figures in an inconsistent manner in the Brief Description of the Drawings and in the drawing figures.

The "Notice" mailed May 13, 2008, was correct in advising applicants that Figures 2-6 appeared to have been omitted. The "Notice" was properly mailed and will not be withdrawn. The petition fee is required and will not be refunded, since the petition was not necessary to correct any PTO error.

The application is being returned to the Office of Patent Application Processing for further processing with the presently accorded filing date of April 16, 2008. As this is a provisional application, the amendment to the specification to correct the labeling of the drawing figures will not be entered.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 26 2008

OFFICE OF PETITIONS

MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

In re Application of
Jacob Heer
Application No. 61/045,453
Deposited: April 16, 2008
Attorney Docket No. 066042-8029-00
Title of Invention: Right Angle Impact Driver

DECISION GRANTING PETITION

This is a decision on the petition filed August 8, 2008, requesting that the above-identified provisional application be accorded a filing date of April 16, 2008.

The application was deposited on April 16, 2008. However, on July 25, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without a specification as prescribed by 35 USC 112.

In response, on August 8 2008, the present petition was filed. Petitioner argues that the specification was interspersed in the drawings. In essence petitioner states that the drawings and text are sufficient to satisfy the embodiment of the invention. Petitioner has also provided an specification on a separate page. Petitioner states the specification submitted on petition does not add new matter.

It is the practice of the Office to accord a filing date to an application that appears to comply with the requirements for according a filing date. As such drawings alone may be sufficient to provide the written description requirement of 35 USC 112. The present provisional application appears to comply with the requirements for a filing date. It is not necessary to now determine whether this provisional application will adequately support any non-provisional application claiming the benefit of

its filing date. In this instance, the eight(8)pages of drawings will be construed as the written description required by 35 USC 112.

Petitioner is also reminded, the filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application. See 35 U.S.C. 111(b)(4) and 37 C.F.R. 1.53(c). Thus, in a provisional application, petitioner does not have the option of amending the application on the basis that the specification does not constitute new matter. Pursuant to 37 CFR 1.121(k),amendments in provisional applications are not usually made. If an amendment is made to a provisional application, however, it must comply with the provisions of this section. Any amendments to a provisional application shall be placed in the provisional application file but may not be entered.

As such only the application papers filed on April 16, 2008 will be considered part of the application.

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

The petition fee will not be refunded because the petition was not necessitated by Office error.

The application will be processed with only the papers present on filing and is hereby accorded a filing date of **April 16, 2008**.

The application is being returned to the Office of Patent Application Processing for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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AUG 22 2008

In re Application of:	:	
Jia et al.	:	
Application No. 61/045499	:	DECISION ON
Filing or 371(c) Date: 04/16/2008	:	PETITION
Attorney Docket Number: 022104-003100US	:	

This is a decision on the "Petition in Response to Notice of Omitted Items," filed July 15, 2008.

The petition is dismissed.

The application was filed on April 16, 2008. On May 21, 2008, the Office Patent Application Processing mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date, and advising applicants that Figure(s) 5 described in the specification appeared to have been omitted from the application.

In response, the present petition was filed. The petition explains that the omitted item(s) was in fact deposited with the application as-filed on April 16, 2008Applicant states that the provisional application references Figure 5 as describing "Table 4." The petition is accompanied by a preliminary amendment to the specification re-labeling the drawing Figure. Petitioner believes that the Notice was issued in error and requests a refund of the petition fee.

A review of the file confirms that the drawings filed on April 16, 2008, included 129 sheets of drawings, and that the last sheet, number 129, is labeled "Table 4." A review of the duplicatecopy of the 129 sheets of drawings filed with the present petition confirms that the previously labeled "Table 4" has now been labeled FIG. 5.

Applicant is advised that a petition is not required to add the drawing Figure(s)s. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Further to this, the MPEP 601.01(g) provides the following option in response to a Notice of Omitted Item(s) in a Nonprovisional Application:

> (C) accept the application as deposited in the USPTO. Applicant may accept the application as deposited in the USPTO by either:

> (1) not filing a petition under 37 CFR 1.53(e) or 37 CFR 1.182 (and the required petition fee) as discussed above within 2 months of the date of the "Notice of Omitted Item(s)." The failure to file a petition under 37 CFR 1.53(e) or 37 CFR 1.182 will be treated as constructive acceptance by the applicant of the application as deposited in the USPTO. The application will maintain the filing date as of the date of deposit of the original application papers in the USPTO. The original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the original date of deposit. Amendment of the specification is required in a nonprovisional application to cancel all references to the omitted drawing, both in the brief and detailed descriptions of the drawings and including any reference numerals shown only in the omitted drawings. In addition, an amendment with replacement sheets of drawings in compliance with 37 CFR 1.121(d) is required in a nonprovisional application to renumber the drawing figures consecutively, if necessary, and amendment of the specification is required to correct the references to the drawing figures to correspond with any relabeled drawing figures, both in the brief and detailed descriptions of the drawings. Such amendment should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application. (Emphasis supplied).

It is noted that the specification filed on April 16, 2008, describes Fig. 5. Since the drawings filed on April 16, 2008, did not include a figure labeled "Fig. 5," the Notice mailed May 21, 2008, was correct in advising applicants that drawing Figure 5 appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

The petition fee is required, since the petition was not necessary to correct any PTO error.

The application file will be referred to the Office Patent Application Processing for further processing with a filing date of April 16, 2008, using the drawings filed on that date.

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

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

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
SPRECHER et al. :
Application No. 61/045,796 : ON PETITION
Filed: April 17, 2008 :
Attorney Docket No. 016026-9309 US00 :

This is a decision on the petition under 37 CFR 1.53(e) filed on April 30, 2008, requesting that the Office accord the above-identified provisional application a filing date of April 17, 2008.

On April 17, 2008, applicants deposited the above-identified provisional application without drawings. On April 24, 2008, the Office mailed a Notice of Incomplete Provisional Application, indicating that the application had not been accorded a filing date because the application had been deposited without drawings, and stating that the filing date would be the date of receipt of the omitted drawings.

On petition, applicants explain:

> The drawing was inadvertently omitted as the result of a clerical error in assembling the above-identified application for electronic scanning and filing. Applicants respectfully submit, however, that the inadvertently omitted drawing is not necessary for understanding of the subject matter sought to be patented, *(see* MPEP § 601.01 (f)), and that the written description of the invention (46 pages in length) is more than sufficient to satisfy the requirements under 35 U.S.C. § 112. In other words, the written description is sufficiently detailed, clear and concise that a person skilled in the art could make and use the disclosed invention. In view of the foregoing, Applicants respectfully request that the April 17, 2008 filing date be accorded to this provisional application.

Petition, 04/30/08, pp. 1-2

A review of the provisional application papers deposited on April 17, 2008, reveals that the application contains method claims. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application may be accorded a filing date of April 17, 2008, without any drawings.

Accordingly, the petition is **granted** to the extent indicated above.

The $400.00 petition fee is unnecessary and will be refunded to the Deposit Account.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of April 17, 2008, with "0" sheets of drawings, and to mail a corrected filing receipt.

Any inquiries regarding 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

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222 N. LASALLE STREET
CHICAGO IL 60601

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OCT 0 7 2008

OFFICE OF PETITIONS

In re Application of :
POLON, JONATHAN PAUL :
Application No. 61/046,037 : ON PETITION
Filed: April 18, 2008 :
Attorney Docket No. 40766.00.0002 :

This is a decision on the "PETITION IN SUPPORT OF MISIDENTIFIED FIGURES," filed June 24, 2008, which is being treated as a request to withdraw that the Notice of Omitted Item(s) in a Provisional Application mailed April 24, 2008.

On April 18, 2008, applicant filed the above-identified application. However, on April 24, 2008, the Office mailed a Notice of Omitted Item(s) in a Provisional Application, stating that the application had been accorded a filing date of April 18, 2008, and advising applicant that Figures 7-9 described in the specification appeared to have been omitted.

In response, on June 24, 2008, applicant filed the present petition and the petition fee. Applicant asserts that Figures 7-9 were not omitted from the application papers as filed on April 18, 2008; however, they were mislabeled. Applicant explains that due to a clerical error at the time of filing the above-identified application, FIGS. 7-9 were labeled "Appendix to the Specification."

Upon considering applicants' argument, it appears that no drawings were actually missing on April 18, 2008. Rather, the drawings of Figures 7-9 were simply mislabeled as a result of applicant's filing error. However, the Notice of Omitted Item(s) in a Provisional Application, mailed April 24, 2008, was correct in stating that Figures 7-9 described in the specification appeared to have been omitted. Therefore, the Notice of Omitted Item(s) in a Provisional Application was properly mailed and will not be withdrawn.

Accordingly, the petition is dismissed.

The petition fee will not be refunded because the present petition was not necessitated by any error on the part of the USPTO.

The Office reminds applicant that amendments, other than those required to make the provisional application comply with applicable regulations, are not permitted after the filing date of the provisional application. MPEP 601.01(b). Likewise, in view of the relatively low filing fee for provisional applications, and the desire of the USPTO to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application. MPEP 601.01(d).

This matter is being referred to the Office of Patent Application Processing to process the application with a filing date of April 18, 2008, using the papers filed on that date.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Webb Hsu et al.	:	
Application No. 61/046,156	:	DECISION
Filed: April 18, 2008	:	ON PETITION
Atty Docket No. 074019-2050	:	

This is a decision on the "Petition To Accord Filing Date Under 37 C.F.R. § 1.53(c)" filed May 28, 2008, requesting that the above-identified application be accorded a filing date of April 18, 2008.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on April 18, 2008. However, on May 21, 2008, the Office mailed a "Notice of Incomplete Provisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, applicant timely filed the instant petition. Applicant states that the Notice is improper. Applicant points out that this provisional application was filed with at least one process or method claim. Applicant acknowledges that the application was inadvertently deposited without drawings. Applicant states that, therefore, the omitted drawings are not necessary under 35 U.S.C. § 113 for a filing date.

35 U.S.C. 111(b)(4) provides that:

> The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

This application is entitled to a filing date of April 18, 2008, without drawings. It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). MPEP § 601.01(f).

A review of the original application papers filed April 18, 2008, reveals that they contained at least one method and at least one process claim. Thus, the application, containing a specification and at least one claim was complete within the meaning of 37 CFR §1.53(b), and entitled to a filing date of April 18, 2008.

Accordingly, the petition is granted to the extent that the provisional application will be accorded the April 18, 2008 filing date with no drawings as a part of the original disclosure of the application.

However, in regards to withdrawing the Notice, MPEP §601.01(f) also states that:

> ...a provisional application having at least some disclosure, directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

As the specification contained references to drawing figures, mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Provisional Application."

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

This application is being forwarded to the Office of Patent Application Processing for:

- **Correction of the filing date to April 18, 2008**; and
- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding any missing items or fees owed, and other information in due course from the Office of Patent Application Processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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11th Floor, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212

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OCT 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Scott Plummer et al.	:	
Application No. 61/046,989	:	DECISION ON PETITION
Filed: April 22, 2008	:	TO WITHDRAW
Attorney Docket No. P1201/20002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 24, 2008.

The request is **APPROVED**.

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

The request was signed by William C. Youngblood on behalf of all attorneys/agents associated with customer number 03000. All attorneys/agents associated with customer number 03000 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Scott Plummer
2433 Vine Street
Denver, CO 80205-5655

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/046,989	04/22/2008	Scott Plummer	P1201/20002

CONFIRMATION NO. 9862

POWER OF ATTORNEY NOTICE

3000
CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Date Mailed: 10/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/24/2008.

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

/kainabinet/

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

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15TH FLOOR
NEW YORK NY 10016

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Baer, et al. :
Application No. 61/047,019 : ON PETITION
Filed: April 22, 2008 :
Attorney Docket No.INA-190

This is a decision on the petition under 37 CFR §1.137(b), February 12, 2009, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 to expedite the petition under 37 CFR 1.137(b) filed February 19, 2009.

The petition under 37 CFR 1.182 is **granted.**

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Provisional Application mailed June 6, 2008. The notice set a shortened period for reply of two months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period and the application became abandoned on August 7, 2008. A Notice of Abandonment was mailed on February 9, 2009.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

As to item (1), the Notice of June 6, 2008, required payment of a $50.00 surcharge. The surcharge did not accompany the petition, nor was an authorization to charge a deposit account for the same on file. The renewed petition must be accompanied by the $50.00 surcharge.

There is no need to file a renewed petition to expedite as any renewed petition file will receive priority consideration by the undersigned.

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NEW YORK NY 10016

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APR 10 2009

OFFICE OF PETITIONS

In re Application of
Baer, et al.
Application No. 61/047,019
Filed: April 22, 2008
Attorney Docket No.INA-190

: ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), April 3, 2009, to revive the above-identified application.

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

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Provisional Application mailed June 6, 2008. The notice set a shortened period for reply of two months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period and the application became abandoned on August 7, 2008. A Notice of Abandonment was mailed on February 9, 2009. A petition under 37 CFR 1.137(b) was first filed March 19, 2009, and dismissed by a decision mailed March 27, 2009.

The amount of $50.00 will be charged to deposit account 02-2275 for the surcharge required by the Notice to File Missing Parts of Provisional Application.

The application file will be directed to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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MAR 16 2009

OFFICE OF PETITIONS

Guerman Pasmanik
720 N. Hammonds Ferry Rd.
Linthicum MD 21090-1313

In re Application of	:	
Guerman Pasmanik	:	
Application No. 61/047,173	:	DECISION ON PETITION
Filed: April 23, 2008	:	PURSUANT TO
Title: METHOD TO PROVIDE THE	:	37 C.F.R. § 1.181(A)
LASER BEAM AIMING INTO SELECTED	:	
AREA ON THE SURFACE OF AN	:	
EXTENDED TARGET	:	

This is a decision on the petition filed February 12, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

Receipt of the concurrently submitted surcharge associated with the late submission of a filing fee or cover sheet is acknowledged. It is noted that a cover sheet was not included.

It is further noted that Petitioner has also submitted an extension of time in the amount of $160. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[1] Accordingly, since the $160 extension of time submitted with the petition on February 12, 2009 was filed subsequent to the maximum extendable

1 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

period for reply, this fee is unnecessary and will be refunded to Applicant's credit card.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 13, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 14, 2008. A notice of abandonment was mailed on January 15, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

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

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

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

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

Section 711.03(c)(I) sets forth, *in pertinent part*:

> I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT
> A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding

of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.
Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based on unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such

master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing

log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

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

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

...

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should not be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 CFR 1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application. Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 CFR 1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously,

> intentional delay in seeking the revival of an abandoned application precludes relief under 37 CFR 1.137(a) or (b) (discussed below).

ANALYSIS

With this petition, Petitioner has stated that he "missed" the notice of May 13, 2008, because he was away on a "business trip…(Probably the letter was lost during my absent)" (sic).

It is not clear if Petitioner is asserting:

- **the notice was not received (*i.e.* he retrieved his mail upon his return and the notice was not among the articles of collected mail) or;**
- **if the notice was found upon his return, but the period for reply had already expired.**

If the former is the case, Petitioner will need to meet the requirements of Delgar.

This would require providing the Office with a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO and establishing that the docketing system is sufficiently reliable, a statement indicating that a search of the file jacket (or the equivalent) and the application contents indicates that the notice was not received, a copy of the record(s) used by the Applicant where the allegedly non-received notice would have been entered had it been received.

Moreover, Applicant would need to provide a copy of the master docket, or state that no such master docket exists and submit other forms of evidence (such as, but not limited to, the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question).

See MPEP § 711.03(c)(I)(A), reproduced above.

If the latter is the case, the filing of this petition is not appropriate. MPEP § 711.03(c)(I) sets forth two situations where a petition to withdraw the holding of abandonment is appropriate: the filing of a petition to withdraw a holding of abandonment may be based on either a failure to receive the

Office Action, or evidence that a reply was timely mailed or filed. The failure to access one's mail prior to the expiration of the maximum period for reply does not warrant a finding that the holding of abandonment should be withdrawn.

ALTERNATE VENUE

Due to the fact that Petitioner is a pro se Applicant, it is possible that he might not maintain a docketing system, a file jacket, a master docket, an incoming mail log, a calendar, a reminder system, or an individual docket record for the application in question. It follows that Petitioner might not be in a position to adequately support an assertion of non-receipt.

If such is the case, or if the notice was found upon his return, but the period for reply had already expired, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a)[2] and/or (b).[3] Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

Petitioner may download information about these petitions here: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, 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, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

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

2 The fee that is associated with the filing of this petition is presently set at $270 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0061.pdf.

3 The fee that is associated with the filing of this petition is presently set at $810 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0064.pdf.

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

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.[8] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-08

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

COPY MAILED
AUG 29 2008

In re Application of :
Anand-Apte, et al. :
Application Number: 61/047,266 : DECISION ON PETITION
Filing Date: April 23, 2008 :
Attorney Docket Number: CCF-018349US PRO :

This is a decision on the "Response to Notice of Incomplete Non-Provisional Application," filed on July 31, 2008, which is treated as a petition requiring that the above-identified provisional application be accorded a filing date of April 23, 2008.

The petition is **granted**.

The instant provisional application papers as filed consisted of 15 pages containing both text and drawings.

On May 13, 2008, however, the Office of Patent Application Processing (OPAP) sent a Notice of Incomplete Provisional Application stating that the drawings were missing and that the filing date would be the date of receipt of the missing drawings in compliance with 35 U.S.C. 113.

In reply, the present petition was filed on July 31, 2008. Petitioner asserts that the application as filed fully complies with 35 U.S.C. 113.

Pursuant to 35 USC 111(b)(1)(A);(B), in order to obtain a filing date, a provisional application must provide the specification required by 35 USC 112 ¶ 1, and a drawing as prescribed by 35 USC 113. 37 CFR 1.53(c)(1) also requires the inclusion of a cover sheet pursuant to 37 CFR 1.51(c)(1), a condition clearly met herein on January 11, 2008, as was the submission of the filing fee required by 35 USC 41. All conditions for obtaining a filing date in this provisional application were clearly met on April 23, 2008.

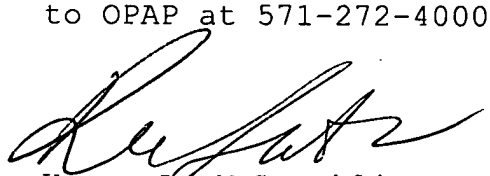
Under the facts of this case, this provisional application is entitled, for a filing date, to the date of receipt of the 15 pages of drawings and text. There is no explicit requirement

Under the facts of this case, this provisional application is entitled, for a filing date, to the date of receipt of the 15 pages of drawings and text. There is no explicit requirement that precludes the obtaining of a filing date for a provisional application when the specification and drawings are, as here, not separated.

However, as petitioner indicated on in the specification that figures were present, yet the drawing figures included were not labeled the petition was necessitated by an error on the part of applicant, and a petition fee of $400.00 will not be refunded.

This provisional application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of April 23, 2008.

Telephone inquiries should be directed to the undersigned at 571-272-3222. Inquiries related to OPAP processing should be directed to OPAP at 571-272-4000.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NEDIM T. SAHIN
23 PINCKNEY STREET
UNIT 6
BOSTON MA 02114

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Sahin	:	
Application No. 61/047,312	:	DECISION
Filed: 23 April, 2008	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed on 2 March, 2009, under the provisions of 37 C.F.R. §1.137(b), seeking revival of the application as having been abandoned due to unintentional delay.

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

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

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.

Petitioner does not appear to have addressed the fee requirement(s) under the rule.

These deficiencies must be overcome.

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 of Missing Parts (coversheet, surcharge) mailed on 30 April, 2008, with reply due absent extension of time on or before 30 May, 2008.

The application went abandoned after midnight 30 May, 2008.

The Office mailed the Notice of Abandonment on 2 January, 2009.

On 2 March, 2009, Petitioner filed a petition (but without fee) pursuant to 37 C.F.R. §1.137(b) and averred unintentional delay, with a reply previously filed in the form of a coversheet and surcharge. Petitioners' attentions always are directed to the current fee schedule at the Office website (http://www.uspto.gov/main/howtofees.htm).

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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.

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

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

As discussed above, it does not appear that Petitioner has satisfied the fee requirement under the rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) 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 facsimile: **(571) 273-8300**
Attn: Office of Petitions

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

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

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

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners 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
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ULMER & BERNE LLP
ATTN: DIANE BELL
600 VINE STREET
SUITE 2800
CINCINNATI, OH 45202

MAILED

MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Michael MONASTERIO :
Application No. 61/047,421 : DECISION ON PETITION
Filed: April 23, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed June 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 August 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form a provisional application cover sheet and supplemental fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman Page
Petitions Examiner
Office of Petitions

cc: EDWARD F. CAJA
1660 WEST 2ND STREET
SUITE 1100
CLEVELAND, OH 44113-1448

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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SEP 15 2008

OFFICE OF PETITIONS

APPLIED BIOSYSTEMS INC.
2130 WOODWARD STREET
AUSTIN TX 78744-1832

In re Application of
R Scott Kuersten
Application No. 61/047,549
Deposited: April 24, 2008
Title: Compositions, Methods, and Kits for Detecting Ribonucleic Acid

: DECISION ON PETITION

This is a decision on the petition filed July 3, 2008, requesting that the above-identified provisional application be accorded a filing date of April 24, 2008.

The application was deposited on April 24, 2008. However, on May 22, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, on July 3, 2008, the present petition was filed. Petitioner states that drawings are not necessary for an understanding of the claimed subject matter and, therefore, the application should be accorded the April 24, 2008 filing date without any drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence). . The above application contains at least one method claim.

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.

The petition is **granted to the extent indicated**. The $400.00 petition fee will be refunded to deposit account no. 50-4140.

The application will be referred to the Office of Patent Application Processing for further processing with only the papers present on filing and is hereby accorded a filing date of **April 24, 2008**, without drawings as part of the original disclosure

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

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO TX 75024

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JUN 16 2008

In re Application of :
Ou et al. :
Application No. 61/049,177 : ON PETITION
Filed: 04/30/2008 :
Attorney Docket No. 4194-15600 :

This is a decision on the petition under 37 CFR 1.182, filed May 8, 2008, to correct the name of the first named inventor.

The petition is **granted**.

The name of the first inventor will be changed from "Ou Peng" to - - Peng Ou- -.

The Office records have been updated to reflect the correction of the first inventor's name as noted above. A corrected filing receipt accompanies this decision.

The Office finance records reveal that petitioner paid a $130.00 fee for filing this petition. However, the correct fee for filing a petition under 37 CFR 1.182 is $400.00. Thus, the Office will charge the Deposit Account the difference of $270.00.

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

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior 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
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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
61/049,177	04/30/2008		210	4194-15600		

CONFIRMATION NO. 9486

CORRECTED FILING RECEIPT

30652
CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

Date Mailed: 06/16/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Peng Ou, Shenzhen, CHINA;
Frank J. Effenberger, Freehold, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 30652

If Required, Foreign Filing License Granted: 05/06/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/049,177**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Upgraded Codeword Lock State Machine

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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STOLOWITZ FORD COWGER LLP
621 SW MORRISON ST
SUITE 600
PORTLAND OR 97205

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Peyman Faratin :
Application No. 61/049,401 : ON PETITION
Filed: April 30, 2008 :
Attorney Docket No. 61692/55:1 :

This is in response to the petition filed August 15, 2008 under 37 CFR 1.28, requesting that status as a Small Entity be removed and for acceptance of a fee deficiency submission.

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.33d 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 and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SEP 18 2008

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Application of :

ROSENBAUM, Frank :
Application No. 61/049,604 : DECISION ON PETITION
Filed: May 01, 2008 : TO WITHDRAW
Attorney Docket No. **43832-107518** : 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 27, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHATHAN P. O''BRIEN**
MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.
277 SOUTH ROSE STREET
SUITE 5000
KALAMAZOO, MI 49007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/049,875	05/02/2008	Les Okrasa	

CONFIRMATION NO. 2487

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/05/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **05/14/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

In re Application of :
BAILEY, Christopher E. :
Application No. 61/050,839 : DECISION ON PETITION
Filed: May 06, 2008 : TO WITHDRAW
Attorney Docket No. **21397/0209502-US0** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John Branch on behalf of all attorneys of record who are associated with customer No. 07278. All attorneys/agents associated with the Customer Number 07278 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Christopher Bailey 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: **CHRISTOPHER E. BAILEY**
LEAP MARKETING TECHNOLOGIES INC.
1819 HARBOUR DRIVE
COQUITLAM BC V3J 5W4

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/051,308	05/07/2008	Les Okrasa	

CONFIRMATION NO. 7933

Les Okrasa
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/05/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **05/07/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/051,722	05/09/2008	Les Okrasa	

CONFIRMATION NO. 9817

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **05/09/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/051,739	05/09/2008	Les Okrasa	

CONFIRMATION NO. 9853

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/05/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **05/09/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

In re Application of :
Ramer et al. :
Application No. 61/052024 : ON PETITION
Filing or 371(c) Date: 05/09/2008 :
Attorney Docket Number: JMPT-0039-P60 :

This is a decision on the Petition to Revive Application Under 37 C.F.R. 1.137(b), filed February 18, 2009.

The Petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Provisional Application ("Notice"), mailed May 23, 2008. The Notice set a two (2) month period for reply. No complete and proper reply having been received, the application became abandoned on July 24, 2008. A Notice of Abandonment was mailed January 26, 2009.

Applicant files the present petition and response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in the normal course of business.

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

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

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/052,675	05/13/2008	Les Okrasa	

CONFIRMATION NO. 3306

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **05/13/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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Andrew D. Mead, Attorney At Law
P.O. Box 415
Brownstown, PA 17508-0415

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OFFICE OF PETITIONS

In re Application of	:	
Lloyd Hoover	:	
Application No. 61/052,763	:	DECISION ON PETITION
Filed: May 13, 2008	:	
Attorney Docket No. 2008-025	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 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 Provisional Application (Notice), mailed May 27, 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 July 28, 2008. A Notice of Abandonment was mailed on February 4, 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 Application Data Sheet, and a $25 surcharge fee (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received February 11, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Andrew D. Mead
342 East Main Street, Ste. 205
Leola, PA 17540

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OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

In re Application of :
Divaydeep Sikri, et. al. :
Application No. 61/052,973 : DECISION ON PETITION
Filed: May 13, 2008 :
Atty. Docket No. 080790P1 :

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATON AND PETITION TO ACCEPT ORIGINAL DATE OF DEPOSIT AS FILING DATE filed September 18, 2008. Given the arguments on petition and the status of the application, this petition is properly treated as a petition to withdraw the "Notice of Termination of Proceedings Under 37 CFR 1.53(e)" and to accord the above-identified application a filing date of May 13, 2008.

The petition to withdraw the Notice of Termination of Proceedings Under 37 CFR 1.53(e) is **GRANTED**.

The petition to accord the above-identified application a filing date of May 13, 2008 is **GRANTED**.

BACKGROUND

Application papers in the above-identified application were filed by the Electronic Filing System (EFS-Web) on May 13, 2008[1]. By NOTICE OF INCOMPLETE PROVISIONAL APPLICATION mailed May 22, 2008, applicant was advised that the application had not been accorded a filing date because the application was deposited without drawings. This Notice set a two-month period for reply and also required an executed oath or declaration under 37 CFR 1.63. No reply was received. Accordingly, by Notice mailed September 15, 2008, applicant was advised that proceedings in the above-identified application were terminated. This Notice set a two-month period for reconsideration.

[1] A review of official record for the above application confirms that the application papers were filed by EFS-Web on May 13, 2008.

On September 18, 2008, patent attorney Kenneth V. Vu filed the instant petition on behalf of applicants Divaydeep Sikri, et. al. Petitioner states that the abandonment of this application was unintentional.

Preliminarily, it is noted that the application was not abandoned within the meaning of 37 CFR 1.137(b) but rather proceedings were terminated. Thus, filing of a petition to revive is inappropriate. Applicant should have timely requested reconsideration of the termination of proceedings, as stated on the Notice. Furthermore, the petition was filed outside of the two-month period for taking action in response to the Notice of Termination of Proceedings. Nonetheless, the circumstances of the termination of proceedings and of the delay in filing a petition have been considered, and it is concluded that under the circumstances, the petition will be treated on the merits and the Notice of Termination will be withdrawn.

RELEVANT STATUTES AND REGULATIONS

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.

However, as stated in MPEP 601.01(f)

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

MPEP 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

And MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., Office of Patent Application Processing will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

The application has been reviewed and it is controlling that the application as deposited on May 13, 2008 included method claims. Thus, the application, containing a specification and at least one claim was complete within the meaning of 37 CFR §1.53(b) without drawings, and entitled to a filing date of May 13, 2008. See MPEP 601.01(f).

Accordingly, the petition is granted to the extent that the nonprovisional application will be accorded the May 13, 2008 filing date with no drawings as a part of the original disclosure of the application.

Given the basis for granting the petition to accord a filing date, the petition under 37 CFR 1.137(b) is unnecessary and is being credited to counsel's deposit account.

This application is being forwarded to the Office of Patent Application Processing for:

- **according the filing date of May 13, 2008**, using the papers filed on that date;
- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing;
- **withdrawing of the Notice of Termination of Proceedings mailed May 22, 2008** and processing of any fee adjustments, as appropriate.

Applicant will receive appropriate notifications regarding any missing items or fees owed and other information in due course from Office of Patent Application Processing.

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

/Andrea M. Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

/dab/
David Bucci
Petitions Examiner

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United States Patent and Trademark Office
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Patentique PLLC
P.O. Box 5803
Bellevue WA 98006

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OCT 23 2009
OPLA-DCPEP

In re Application of :
Joseph D. Mosca : DECISION DISMISSING
Application No. 61/053,633 : PETITION
Filed: May 15, 2008 :
Docket No. 028468-JDM5 :

The petition under 37 CFR 1.183 to convert the above identified provisional application to a nonprovisional application which was filed on May 27, 2009 was referred to this office for review. The petition must be dismissed because it was filed more than 12 months after the provisional application filing date.

On May 15, 2008, the above identified provisional application was filed. On May 27, 2009, more than 12 months after the provisional application filing date, the instant request to convert the provisional application to a nonprovisional application was filed. No earlier request to convert was filed.

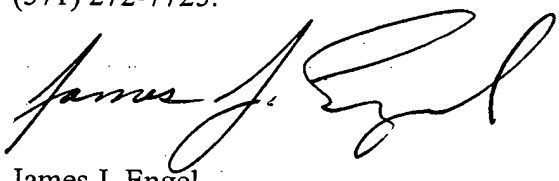
37 CFR 1.53(c)(3)(ii) requires that a request to convert a provisional application to a nonprovisional application be filed prior to the expiration of twelve months after the filing date of the provisional application. Petitioner requests that the U.S. Patent and Trademark Office (Office) waive this requirement. 37 CFR 1.183 provides that "[I]n extraordinary situations, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director...". The petition cannot be granted because the requirement to request conversion prior to the expiration of twelve months after the filing date of the provisional application is a requirement of the statute. Specifically, 35 U.S.C. 111(b)(5) sets forth:

> ABANDONMENT.-Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). Subject to section 119(e)(3) of this title, if no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival after such 12-month period.

Because the Office cannot waive any requirement of the statute, the petition is DISMISSED.

May 15, 2009 was the date that was 12 months after the filing date of the above-identified provisional application. On that date no request to convert the application to a nonprovisional application had been filed. *Accordingly, the application became abandoned by operation of law (35 U.S.C. 111(b)(5)) at midnight on May 15, 2009 and is not subject to revival.*

Any inquiries related to this decision should be directed to Senior Legal Advisor James Engel at (571) 272-7725.



James J. Engel
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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Bellevue WA 98006

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APR 26 2010

OFFICE OF PETITIONS

In re Application of
Joseph D. Mosca
Application No. 61/053,633
Filed: May 15, 2008
Docket No. 028468-JDM5

: DECISION DISMISSING
: REQUEST FOR
: RECONSIDERATION

This is a decision on the "Request for Reconsideration of Decision Dismissing Petition under 37 C.F.R. § 1.183" filed December 24, 2009, requesting reconsideration of the Decision mailed October 23, 2009. Petitioner again requests that the May 27, 2009 petition under 37 CFR 1.183 to convert the above-identified provisional application to a nonprovisional application be granted despite the fact it was filed more than 12 months after the May 15, 2008 provisional application filing date.

Petitioner argues that the requirement to file a request to convert a provisional application to a nonprovisional application within 12 months of the provisional application filing date was "prescribed by the Director" in 37 CFR 1.53(c)(3)(ii) and is not a requirement of the statute 35 U.S.C. 111(b)(5). Thus, according to petitioner, the U.S. Patent and Trademark Office (Office) may waive the requirement under 37 CFR 1.53(c)(3)(ii) that a request to convert must be filed "prior to the... [E]xpiration of twelve months after the filing date of the provisional application..."

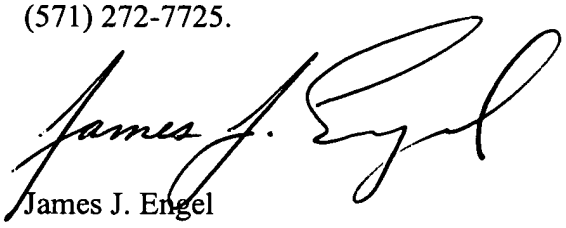
Petitioner points out that according to 35 U.S.C. 111(b)(5), a provisional application may be converted to a nonprovisional application "upon timely request and as prescribed by the Director..." According to petitioner, this language of the statute gave the Office authority to *prescribe* what constitutes a "timely request." Further, according to petitioner, 37 CFR 1.53(c)(3)(ii) is the timeliness requirement that was "prescribed by the Director" pursuant to the statute. Petitioner's interpretation of the statute is misguided. First, it fails to recognize that what constitutes a "timely request" and what may be "prescribed by the Director" are by the terms of the statute, two separate things. In fact, what the Director "prescribed" via 37 CFR 1.53(c)(3) were requirements such as a fee and an amendment including at least one claim unless the provisional application already contained a claim. Furthermore, petitioner ignores that § 111(b)(5) itself sets forth what constitutes a timely request. As pointed out in the October 23, 2009 Decision, § 111(b)(5) states *"... if no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival after such 12-month period"* (italics added). Clearly that language prohibits reviving and converting an abandoned provisional application to a nonprovisional application based on a request to convert filed more than 12 months after the provisional application filing date.

The December 24, 2009 request for reconsideration requests "[A]dherence to the Statutory Language and Intent of 35 U.S.C. § 1.111(b)(5) [*sic*]" without alleging anything specific regarding legislative intent. As set forth above, the language of the statute is clear. If there was any need to reference legislative intent, that intent could be discerned from the Congressional Record at Cong. Rec. S14723 (November 17, 1999) where it is stated:

> Section 4801 amends section 111(b)(5) of the Patent Act by permitting a provisional application to be converted into a non-provisional application. The applicant must make a request within 12 months after the filing date of the provisional application for it to be converted into a non-provisional application. (Emphasis added.)

The previous decision has been reconsidered as requested, but the result is the same. The untimely request to convert the above-identified provisional application to a nonprovisional application is dismissed.

Any inquiries related to this decision should be directed to Senior Legal Advisor James Engel at (571) 272-7725.



James J. Engel
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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118 NORTH TIOGA ST
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AUG 15 2008

In re Application of
Tyler
Application Number: 61/053,715
Deposited: May 16, 2008
Attorney Docket Number: RLIS-25

ON PETITION

This is a decision on the "PETITION REGARDING FILING DATE OF PROVISIONAL APPLICATION," filed on May 27, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of May 16, 2008.

The petition is **GRANTED**.

The application was deposited on May 16, 2008, without drawings. Accordingly, on May 23, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings. It is noted that drawings were referenced in the specification filed on May 16, 2008.

In response, on May 27, 2008, the subject petition was filed. Petitioner asserts that that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

... [A] provisional application having at least some disclosure ...for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, and filed without drawings will be treated as an application filed without all of the drawing figures referred

to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description

The arguments in the petition will be construed to mean that applicant's counsel is asserting that drawings are not necessary for a filing date in this application.

In view of the above, the Notice of Incomplete Provisional Application mailed on May 23, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of May 23, 2008, without drawings as a part of the original disclosure.

As the petition was necessitated by an Office error, the petition fee is unnecessary and will be credited to counsel's credit card.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to **May 16, 2008**, and for an indication in Office records that no (0) drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

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OFFICE OF PETITIONS

In re Application of	:	
Laurent A. Regimbal et al.	:	
Application No. 61/054,096	:	DECISION ON PETITION
Filed: May 16, 2008	:	
Attorney Docket No. 016295.3777 (DC-15587)	:	

This is a decision on the petition under 37 CFR 1.182, filed, July 25, 2008, to comply with the Notice of Omitted Items in a Provisional Application..

The petition is **GRANTED**.

A Notice of Omitted Item(s) in a Provisional Application was mailed May 27, 2008 indicating that figure 9 as described in the specification was missing. The petition includes a replacement drawing sheet 8/8 with figure 9 properly labeled. Petitioner indicates that figure 9 was included on sheet 8 of the drawings of the application as filed but was not labeled with a figure number. The petition is convincing of the fact that the figure was present in the application at the time of filing. The replacement drawing sheet provides the missing figure number.

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

The matter is being referred to The Office of Patent Application Processing for further processing as a provisional application.

David Bucci
Petitions Examiner
Office of Petitions

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MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of
David Amsalem
Application No. 61/054,099
Filed: May 16, 2008
Attorney Docket No: INVE0001PR

DECISION ON PETITION

This is a decision on the petition to accord a filing date, filed September 19, 2008, which is treated as a petition under 37 CFR 1.53(e), requesting that the above-identified provisional application be accorded a filing date of May 16, 2008.

The petition is **GRANTED**.

The instant provisional application papers as deposited on May 16, 2008 consisted of twenty-one (21) sheets of drawings. On July 24, 2008, however, the Office of Data Management sent a Notice of Incomplete Provisional Application, indicating that the papers as filed, lacked a specification and that the filing date would be the date of receipt of the missing specification.

In reply, the instant petition to accord a filing date of May 16, 2008 includes an argument that "Applicant's figures were annotated with copious quantities of text to describe the invention in accordance with the requirements of 35 U.S.C. 112, first paragraph. That is, the figures as originally submitted 'describe the invention and the manner and process of making it and using it in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same" thus entitling the application to a filing date of May 16, 2008.

Pursuant to 35 U.S.C. 111(b)(1)(A);(B), in order to obtain a filing date, a provisional application must provide the specification required by 35 U.S.C. 112 ¶ 1, and a drawing as prescribed by 35 U.S.C. 113. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

RELEVANT STATUTES, REGULATIONS AND PROCEDURE

35 U.S.C. 111(b) provides, in pertinent part, that:

(1) AUTHORIZATION. —A provisional application for patent shall be made or authorized to be made by the inventor, except as otherwise provided in this title, in writing to the Director. Such application shall include —

(A) a specification as prescribed by the first paragraph of section 112 of this title; and

(B) a drawing as prescribed by section 113 of this title.

(2) CLAIM. —A claim, as required by the second through fifth paragraphs of section 112, shall not be required in a provisional application.

...

(4) FILING DATE. —The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

35 U.S.C. 112, first paragraph, provides that:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

37 C.F.R. § 1.53(c) further provides that:

> The filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.
>
> > (1) A provisional application must also include the cover sheet required by § 1.51(c)(1), which may be an application data sheet (§ 1.76), or a cover letter identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under paragraph (b) of this section.

MPEP 601.01(b) provides that:

> A provisional application will be given a filing date in accordance with 37 CFR 1.53(c) as of the date the written description and any necessary drawings are filed in the Office. The filing date requirements for a provisional application set forth in 37 CFR 1.53(c) parallel the requirements for a nonprovisional application set forth in 37 CFR 1.53(b), except that no claim is required. Amendments, other than those required to make the provisional application comply with applicable regulations, are not permitted after the filing date of the provisional application.

OPINION

Petitioner does not dispute that as filed the application did not include, other than the drawings and cover sheet, a description in writing regarding the claimed invention.

It is the practice of the Office to accord a filing date to an application that appears to comply with the requirements for according a filing date. Inasmuch as drawings alone may be sufficient to provide the written description requirement of § 112, first paragraph, and the instant application contains drawings and claims are not required, the instant provisional application appears to comply with the requirements for according a filing date. It is not necessary to now determine whether this provisional application will adequately support any non-provisional application claiming the benefit of its filing date. In this instance, the drawings will be construed as the written description required by 35 U.S.C. § 112, first paragraph.

CONCLUSION

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

The petition fee is being refunded to Deposit Account No. 07-1445, as authorized.

The provisional application file is being returned to the Office of Patent Application Processing for **correction of the filing date to May 16, 2008**. In as much as the filing date is accorded based on the application as filed on May 16, 2008, the Specification filed with the petition September 19, 2008 is not part of the original disclosure of the provisional application and will not be entered.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Emmanuel John SIMONS, et al :
Application No. 61/054,339 : DECISION ON PETITION
Filed: May 19, 2008 : TO WITHDRAW
Attorney Docket No. 0492611-0843 (12649) : 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 1, 2009.

The request is **APPROVED**.

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

The request was signed by Jeffrey E. Buchholz on behalf of the attorneys of record associated with Customer No. 24280.

The attorneys of record associated with Customer No. 24280 have been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EMMANUEL JOHN SIMONS
44 FRANCIS AVE.
CAMBRIDGE, MA 02138

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
61/054,339	05/19/2008	Emmanuel John Simons	0492611-0843 (12649)

CONFIRMATION NO. 1329

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

OC000000036513854

Date Mailed: 06/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/01/2009.

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

/dcgoodwyn/

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

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SUITE 6000
SCOTTSDALE AZ 85251

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AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Peter C. Lukens :
Application No. 61/055,073 : DECISION ON PETITION
Filed: May 21, 2008 :
Attorney Docket No. RAYTI.5150 :

This is a decision on the request filed July 31, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (1), (3), and (6) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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OFFICE OF PETITIONS

In re Application of :
Tarka :
Application No. 61/055,444 : DECISION
Filed/Deposited: 22 May, 2008 :
Attorney Docket 54802-8004.US01 :

This is a decision on the petition filed on 13 June, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 22 May, 2008.

On 2 June, 2008, the Office of Patent Application Processing (OPAP) (formerly, the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Nonprovisional Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 13 June, 2008, Petitioner filed the instant petition with, *inter alia*, 12 a statement therein that a "drawing is not necessary for an understanding of the invention" subject matter sought to be patented.

As discussed below, the presence of one or more method description/claims is controlling.

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]

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 22 May, 2008, without drawings, and the Office transmitted to Petitioner on 2 June, 2008, a Notice of Incomplete Nonprovisional Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office, and, in fact, avers that that a "drawing is not necessary for an understanding of the invention" subject matter sought to be patented.

Nonetheless, it is the practice of the Office to treat an application that contains at least one process or method (claim) as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)). As stated in MPEP §601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 C.F.R. §1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 C.F.R. §1.55 for priority of a prior-filed foreign application, or a claim under 37

[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).

> C.F.R. §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

A review of the application as deposited by Petitioner reveals that the application contains at least one method or system description/claim (e.g., Specification at p. 3) and Petitioner has asserted that that a "drawing is not necessary for an understanding of the invention" subject matter sought to be patented..

Thus, the argument of the petition appreciated for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

In view of the foregoing, the Notice mailed on 2 June, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 22 May, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and be refunded to Deposit Account 502207—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 9 22 May, 2008, with the 8 pages of specification deposited on 22 May, 2008, and **no** drawings as the original disclosure.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

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

§1.2 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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DRW Aug-08

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

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AUG 15 2008

In re Application of :
Sarkis, et al. :
Application Number: 61/055,614 : ON PETITION
Filed: June 4, 2008 :
Attorney Docket Number: 3031985 US01 :
:

This is a decision on the petition under 37 CFR 1.53(e), filed on June 6, 2008, requesting that the above-identified provisional application, without drawings, be accorded a filing date of May 23, 2008.

The petition is **GRANTED**.

The application was deposited on May 23, 2008, without drawings. Accordingly, on June 2, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings. It is noted that drawings were referenced in the specification filed on May 23, 2008.

In response, on June 4, 2008, applicants filed drawings. The application was accorded a June 4, 2008 filing date.

The subject petition was filed on June 6, 2008. Petitioners assert that that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

... [A] provisional application having at least some disclosure ...for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, and filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description

The arguments in the petition will be construed to mean that applicants' counsel is asserting that drawings are not necessary for a filing date in this application. Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on May 23, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of May 23, 2008, without drawings as a part of the original disclosure. The drawings filed on June 4, 2008 cannot be added to the application without changing the filing date of the application. It is not permissible to amend a provisional application. 37 CFR 1.53(c).

As the petition was necessitated by an Office error, the petition fee is unnecessary and will be credited to counsel's deposit account.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to **May 23, 2008**, and for an indication in Office records that no (0) drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
AMYLIN PHARMACEUTICALS, INC.
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Application of :
Frederick Bancroft et al :
Application No. 61/055,842 : DECISION ON PETITION
Filed: May 23, 2008 :
Attorney Docket No. 0242US-PRO1 :

This is a decision on the petition under 37 CFR 1.182, filed, March 3, 2009, to correct the spelling of the name of inventor "Michael Nicolaou" to – Michalis Nicolaou --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, 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.

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
61/055,842	05/23/2008		210	0242US-PRO1		

CONFIRMATION NO. 6963

CORRECTED FILING RECEIPT

44638
Intellectual Property Department
Amylin Pharmaceuticals, Inc.
9360 Towne Centre Drive
San Diego, CA 92121

Date Mailed: 06/23/2009

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Frederick Bancroft, San Diego, CA;
Michalis Nicolaou, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number 44638

If Required, Foreign Filing License Granted: 06/23/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/055,842**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Exendin Bioassays

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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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Austin Shoemaker, et al.	:	
Application No. 61/056,815	:	DECISION ON PETITION
Filed: May 28, 2008	:	TO WITHDRAW
Attorney Docket No. 40007528-0007-001	:	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 December 8, 2008.

The request is **NOT APPROVED**.

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

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

The previous letter mailed December 15, 2008 to accept the withdrawal of attorney is hereby **VACATED.** It was sent in error. The attorneys associated with the firm SONNENSCHEIN NATH & ROSENTHAL LLP remain the attorneys of record.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Scott Wiebe**
Coollris, Inc.
1895 El Camino Real
Palo Alto, CA 94306

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101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of :
Peter Drain :
Application No. 61/057,131 : DECISION ON PETITION
Filed: May 29, 2008 :
Attorney Docket No. UPITT-13634 :

This is a decision on the "Petition To Accept Application Without Drawings As Filed under 37 CFR 1.47", filed July 14, 2008, which is being treated as a request that the "Notice to File Missing Parts of Nonprovisional Application" mailed June 30, 2008 be withdrawn.

The petition is **DISMISSED**.

The application was filed on May 29, 2008. However, on June 30, 2008, the Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Provisional Application". The Notice informed applicant that the application had been accorded a filing date. However Figures 2, 3, 4, 8, 11, 12, 15, 16, 17, and 18 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that the figures were present on filing.

It is obvious from the petition that no drawings were actually missing on May 29, 2008. Rather, the drawing sheets containing Figures 2, 3, 4, 8, 11, 12, 15, 16, 17, and 18 were simply mislabeled as a result of applicant's filing error. However, the

"Notice of Omitted Item(s) in a Provisional Application" was correct in stating that Figures 2, 3, 4, 8, 11, 12, 15, 16, 17, and 18 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will not be refunded.

Telephone inquiries concerning 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

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of	:	
Jun Ye et al.	:	
Application No. 61/057,192	:	DECISION ON PETITION
Filed: May 29, 2008	:	
Attorney Docket No. 081468-0373467	:	

This is a decision on the petition under 37 CFR 1.59(b), filed July 15, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that pages 5 and 14-18 of the Appendix to the specification be expunged from the record.

However, 37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

Accordingly, pages 5 and 14-18 of the appendix will not be expunged from the record pursuant to 37 CFR 1.59(b) even though it was mistakenly filed. Moreover, petitioner has not established that an extraordinary situation exits in which justice requires the requested expungement pursuant to a waiver of 37 CFR 1.59(a)(2) under 37 CFR 1.183, as discussed in MPEP 724.05 IV. It is noted a letter of express abandonment was filed April 17, 2009 and accepted in a letter mailed April 24, 2009.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Carl Friedman
Petitions Examiner
Office of Petitions

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SEP 15 2009

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of :
Jun Ye et al. :
Application No. 61/057,194 : DECISION ON PETITION
Filed: May 29, 2008 :
Attorney Docket No. 081468-0373468 :

This is a decision on the petition under 37 CFR 1.59(b), filed July 15, 2009, to expunge information from the above identified application. It is noted that the petition referenced Application No. 61/057,192 which is a related application. However the Electronic Patent Application Fee Transmittal sheet identifies the petition for Application No. 61/057,194 and the instant petition is treated as belonging to the '194 application.

The petition is dismissed.

Petitioner requests that pages 5 and 14-18 of the Appendix to the Specification be expunged from the record.

However, 37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

Accordingly, pages 5 and 14-18 of the Appendix will not be expunged from the record pursuant to 37 CFR 1.59(b) even though it was mistakenly filed. Moreover, petitioner has not established that an extraordinary situation exits in which justice requires the requested expungement pursuant to a waiver of 37 CFR 1.59(a)(2) under 37 CFR 1.183, as discussed in MPEP 724.05 IV. It is noted a letter of express abandonment was filed April 17, 2009 and accepted in a letter mailed April 24, 2009.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of :
Peng Liu et al. :
Application No. 61/057,196 : DECISION ON PETITION
Filed: May 29, 2008 :
Attorney Docket No. 081468-0373466 :

This is a decision on the petition under 37 CFR 1.59(b), filed July 15, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that pages 10, 17 and 18 of the Appendix to the Specification be expunged from the record.

However, 37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

Accordingly, pages 10, 17 and 18 of the Appendix will not be expunged from the record pursuant to 37 CFR 1.59(b) even though it was mistakenly filed. Moreover, petitioner has not established that an extraordinary situation exits in which justice requires the requested expungement pursuant to a waiver of 37 CFR 1.59(a)(2) under 37 CFR 1.183, as discussed in MPEP 724.05 IV. It is noted a letter of express abandonment was filed April 17, 2009 and accepted in a letter mailed April 24, 2009.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Carl Friedman
Petitions Examiner
Office of Petitions

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Choate, Hall & Stewart, LLP
Two International Place
Boston, MA 02110

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MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Vidadi Yusibov :
Application No. 61/057,753 : DECISION ON PETITION
Filed: May 30, 2008 : TO WITHDRAW
Attorney Docket No. 2002645-0153 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 5, 2009.

The request is **APPROVED**.

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

The request was signed by Brenda Herschbach Jarrell on behalf of all attorneys/agents associated with customer number 24280. All attorneys/agents associated with customer number 24280 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. Accordingly, all correspondence will be mailed to address of the inventor at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Vidadi Yusibov
1808 Manor Road
Havertown, PA 19083

cc: Gwilym Attwell
Fish & Richardson
222 Delaware Avenue, 17th Fl.
Wilmington, DE 19899-1114

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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
61/057,753	05/30/2008	Vidadi Yusibov	2002645-0153

CONFIRMATION NO. 4815

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 03/12/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2009.

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

/kainabinet/

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

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Paper No.

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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FEB 04 2009

OFFICE OF PETITIONS

In re Application :
Rick Hangartner :
Application No. 61/058,517 : DECISION ON PETITION
Filed: June 3, 2008 :
Attorney Docket No. 61692/0065:

This is a notice regarding your letter entitled NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER 37 CFR 1.27, filed August 15, 2008, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28. This statement is made by the attorney of record.

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.

The instant request included an itemization (the provisional filing fee) and payment of the deficiency in fees since loss of entitlement to small entity status.

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

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

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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OPPEDAHL PATENT LAW FIRM LLC
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SEP 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Flank, et al.	:	
Application No. 61/059,033	:	DECISION ON PETITION
Filed: June 5, 2008	:	
Attorney Docket No. FLAN.P-003-PV	:	

This is a decision on the petition filed August 19, 2008, in response to the Notice of Incomplete Provisional Application mailed July 24, 2008, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of June 5, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on June 5, 2008. However, on July 24, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner states that drawings are not necessary for an understating of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the name of all the inventors.

The instant provisional application contains disclosure for which a drawing is usually not considered essential for a filing date 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 view of the above, the "Notice of Incomplete Provisional Application" mailed July 24, 2008, was mailed in error and is hereby **withdrawn**.

The Office should have instead mailed a Notice of Omitted Items in a Provisional Application.

As the instant petition was due to USPTO error, the $400 petition is being refunded to petitioner under separate cover.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of June 5, 2008, for indication that "0" sheets of drawings were present on filing, and for mailing of a "Notice of Omitted Items in a Provisional Application".

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

Cliff Congo
Petitions Attorney
Office of Petitions

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In re Application of :
Zlotnik, et al :
Filed: June 6, 2008 : ON PETITION
Application No. 61/059,327 :
Dkt. No.: 67824.727000 :

This is a decision on the "FILING DATE PETITION UNDER 37 CFR 1.182 REQUESTING A FILING DATE OF JUNE 6, 2008 AS THE AS-FILED APPLICATION WAS COMPLETE AS-FILED," filed July 11, 2008 to accord the above-identified application a filing date of June 6, 2008.

The petition is **GRANTED**.

The application was submitted June 6, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed June 27, 2008. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioners argue that drawings are not necessary for an understanding of the invention because the application contains method claims.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing

figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of June 6, 2008. Therefore, the Notice of Incomplete Provisional Application is withdrawn.

The application will be processed with only the papers present on June 6, 2008, without drawings as part of the original disclosure.

No fee is due in connection with this matter. A refund of $400.00 will issue in due course.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of June 6, 2008 using only the papers present on that day and without entry of any drawings into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
ZLOTNIK et al. :
Application No. 61/059,335 : ON PETITION
Filed: June 6, 2008 :
Attorney Docket No. 67824.735000 :

This is a decision on the petition under 37 CFR 1.53(e) filed on August 19, 2008, requesting that the Office accord the above-identified provisional application a filing date of June 6, 2008.

On June 6, 2008, applicants deposited the above-identified provisional application without drawings. On July 10, 2008, the Office mailed a Notice of Incomplete Provisional Application, indicating that the application had not been accorded a filing date because the application had been deposited without drawings.

On August 19, 2008, applicants filed the present petition requesting that the application be accorded a filing of June 6, 2008. Applicants assert that the present provisional application does not require drawings for an understanding of the invention as the application contains method claims.

A review of the provisional application papers deposited on June 6, 2008, reveals that the application contains method claims. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which

> a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application will be accorded a filing date of June 6, 2008, without any drawings.

Accordingly, the petition is **granted** to the extent indicated above. No petition fee has been charged.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of **June 6, 2008**, with "0" sheets of drawings, and to mail a corrected filing receipt.

Any inquiries regarding 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

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In re Application of :
ZLOTNIK et al. :
Application No. 61/059,339 : DECISION ON PETITION
Filed: June 6, 2008 :
Atty Docket No. 67824.715000 :

This is a decision on the "FILING DATE PETITION UNDER 37 CFR 1.182 REQUESTING A FILING DATE OF JUNE 6, 2008 AS THE AS-FILED APPLICATION WAS COMPLETE AS-FILED," filed August 8, 2008.

The above-identified application was deposited on June 6, 2008. On July 10, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the omitted drawings.

On August 8, 2008, petitioners submitted the present petition. Petitioners assert that the application does not require drawings for an understanding of the invention as the application contains method claims.

A review of the provisional application papers deposited on June 6, 2008, reveals that the application contains method claims. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application

> filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application may be accorded a filing date of June 6, 2008, without any drawings.

Accordingly, the petition is **granted**. No fee is required.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of **June 6, 2008**, with "0" sheets of drawings, and to mail a corrected filing receipt.

Any inquiries regarding 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

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OFFICE OF PETITIONS

In re Application of :
Zlotnik, et al. :
Application No. 61/059,342 : DECISION
Filed/Deposited: 6 June, 2008 :
Attorney Docket No. 67824.736000 :

This is a decision on the petition filed on 8 August, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 6 June, 2008.

On 10 July, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 8 August, 2008, Petitioner filed, *inter alia*, a petition and averred therein that drawings were not necessary for the understanding of the subject matter sought to be patented.

Petitioner does not state that the instant application contains one or more method(s) claims, however, that information is evident upon review of the file.

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 6 June, 2008, without drawings, and the Office transmitted to Petitioner on 10 July, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

In fact, the transmittal sheet accompanying the deposit of the application on 6 June, 2008, indicates no drawings accompanying the application on deposit.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 2).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).)

In view of the foregoing, the Notice mailed on 10 July, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an

applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 6 June, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and it appears that none was charged—should Petitioner later find that the petition fee was charged, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 6 June, 2008, with the 118 pages of specification (description, claims abstract) deposited on 6 June, 2008, and **no** drawings as the original disclosure.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

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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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OFFICE OF PETITIONS

In re Application of :
Zlotnik, et al. :
Application No. 61/059,345 : DECISION
Filed/Deposited: 6 June, 2008 :
Attorney Docket No. 67824.716000 :

This is a decision on the petition filed on 5 August, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 6 June, 2008.

On 10 July, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 5 August, 2008, Petitioner filed, *inter alia*, a petition and averred therein that drawings were not necessary for the understanding of the subject matter sought to be patented.

Petitioner does not state that the instant application contains one or more method(s) claims, however, that information is evident upon review of the file.

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 6 June, 2008, without drawings, and the Office transmitted to Petitioner on 10 July, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

In fact, the transmittal sheet accompanying the deposit of the application on 6 June, 2008, indicates no drawings accompanying the application on deposit.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 2).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).)

In view of the foregoing, the Notice mailed on 10 July, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an

applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 6 June, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and it appears that none was charged—should Petitioner later find that the petition fee was charged, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 6 June, 2008, with the 118 pages of specification (description, claims abstract) deposited on 6 June, 2008, and **no** drawings as the original disclosure.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

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

§1.2 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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In re Application of
Zlotnik et al
Application No. 61/059,350
Deposited: June 6, 2008
Attorney Docket Number: 67824.722000

DECISION ON PETITION

This is a decision on the petition filed July 30, 2008, requesting that the above-identified provisional application be accorded a filing date of June 6, 2008.

The application was deposited on June 6, 2008. However, on July 10, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, on July 30, 2008, the present petition was filed. Petitioner states that drawings are not necessary for an understanding of the claimed subject matter and, therefore, the application should be accorded the June 6, 2008 filing date without any drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence). The above application contains at least one method claim.

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.

The petition is **granted to the extent indicated**. No petition fee was received and none is required.

The application will be referred to the Office of Patent Application Processing for further

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processing with only the papers present on filing and is hereby accorded a filing date of **June 6, 2008**, without drawings as part of the original disclosure

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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In re Application of
Zlotnik et al
Application No. 61/059,355
Deposited: June 6, 2008
Attorney Docket Number: 67824.718000

DECISION ON PETITION

This is a decision on the petition filed August 8, 2008, requesting that the above-identified provisional application be accorded a filing date of June 6, 2008.

The application was deposited on June 6, 2008. However, on July 10, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, on August 8, 2008, the present petition was filed. Petitioner states that drawings are not necessary for an understanding of the claimed subject matter and, therefore, the application should be accorded the June 6, 2008 filing date without any drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence). The above application contains at least one method claim.

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.

The petition is **granted to the extent indicated**. No petition fee was received and none is required.

The application will be referred to the Office of Patent Application Processing for further

processing with only the papers present on filing and is hereby accorded a filing date of **June 6, 2008**, without drawings as part of the original disclosure

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Zlotnik et al. :
Application No. 61/059,358 : DECISION
Filed: June 6, 2008 : ON PETITION
Atty Docket No. 67824.719000 :

This is in response to the "FILING DATE PETITION UNDER 37 CFR 1.182 REQUESTING A FILING DATE OF JUNE 6, 2008 AS THE AS-FILED APPLICATION WAS COMPLETE AS-FILED," filed August 5, 2008, requesting that the above-identified application be accorded a filing date of June 6, 2008.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on June 6, 2008. However, on July 10, 2008, the Office mailed a "Notice of Incomplete Provisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, applicant timely filed the instant petition. Applicant submits that the application does not require drawings for the understanding of the invention as the application contains method claims, none of which require drawings for an understanding of the claimed assay methods.

35 U.S.C. 111(b)(4) provides that:

> The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

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

A review of the original application papers filed June 6, 2008, reveals that they contained at least one method claim. Thus, the application, containing a specification and at least one claim was complete within the meaning of 37 CFR §1.53(b), and entitled to a filing date of June 6, 2008.

Accordingly, the petition is granted to the extent that the provisional application will be accorded the June 6, 2008 filing date with no drawings as a part of the original disclosure of the application.

However, in regards to withdrawing the Notice, MPEP §601.01(f) also states that:

> ...a provisional application having at least some disclosure, directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, although authorized, the petition fee has not been charged to petitioner's Deposit Account.

This application is being forwarded to the Office of Patent Application Processing for:

- **Correction of the filing date to June 6, 2008**; and
- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding any missing items or fees owed, and other information in due course from the Office of Patent Application Processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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SEP 18 2008

OFFICE OF PETITIONS

In re Application of :
Zlotnik et al. :
Application No. 61/059,361 : DECISION
Filed: June 6, 2008 : ON PETITION
Atty Docket No. 67824.720000 :

This is a decision on the "FILING DATE PETITION UNDER 37 CFR 1.182 REQUESTING A FILING DATE OF JUNE 6, 2008 AS THE AS-FILED APPLICATION WAS COMPLETE AS-FILED," filed August 5, 2008, which is properly treated as a petition under 37 CFR 1.53(e)(2)[1].

The petition is **GRANTED**.

Application papers in the above-identified provisional application were deposited on June 6, 2008. However, on July 10, 2008, the Office mailed a "Notice of Incomplete Provisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, applicant timely filed the instant petition. Applicant argues that they are entitled to the June 6, 2008 filing date because the application does not require drawings an understanding of the invention as the application contains

---

[1] 37 CFR 1.53(e)(2) provides that:
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).

Further, this fee is subject to refund if the notification was sent in error.

method claims, none of which require drawings for an understanding of the claimed assay methods.

Applicant's contention is well-taken. This application is entitled to a filing date of June 6, 2008, without drawings. It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113(first sentence). MPEP § 601.01(f).

A review of the original application papers filed June 6, 2008, reveals that they contained at least one method claim. Thus, the application, containing a specification and at least one claim was complete within the meaning of 37 CFR §1.53(c), and entitled to a filing date of June 6, 2008.

Accordingly, the petition is granted to the extent that the provisional application will be accorded the June 6, 2008 filing date with no drawings as a part of the original disclosure of the application.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, although authorized, no petition fee is being charged to the Deposit Account.

This application is being forwarded to the Office of Patent Application Processing for:

- **Correction of the filing date to June 6, 2008**; and

- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Applicants will receive appropriate notifications regarding any missing items or fees owed, and other information in due course from the Office of Patent Application Processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 11 2008

In re Application of :
Zlotnick, et al. :
Application No. 61/059,368 : ON PETITION
Filed: June 6, 2008 :
Attorney Docket No. 67824.734000 :

This is a decision on the petition under 37 CFR 1.53(e) filed on August 19, 2008, requesting that the Office accord the above-identified provisional application a filing date of June 6, 2008.

On June 6, 2008, applicants deposited the above-identified provisional application without drawings. On July 10, 2008, the Office mailed a Notice of Incomplete Provisional Application, indicating that the application had not been accorded a filing date because the application had been deposited without drawings, and stating that the filing date would be the date of receipt of the omitted drawings.

On petition, applicants explain that the inadvertently omitted drawing is not necessary for understanding of the subject matter sought to be patented, *(see* MPEP § 601.01 (f). In other words, the written description is sufficiently detailed, clear and concise that a person skilled in the art could make and use the disclosed invention. In view of the foregoing, Applicants respectfully request that the June 6, 2008, filing date be accorded to this provisional application.

A review of the provisional application papers deposited on June 6, 2008, reveals that the application contains method claims. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application

filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application may be accorded a filing date of June 6, 2008, without any drawings.

Accordingly, the petition is **granted** to the extent indicated above.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of June 6, 2008, with "0" sheets of drawings, and to mail a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SEP 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Zlotnik et al.	:	
Application Number: 61/059377	:	ON PETITION
Filed: 06/06/2008	:	
Attorney Docket Number:	:	
67824.724000	:	

This is a decision on the petition filed on July 30, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of June 6, 2008.

The petition is **GRANTED**.

The application was filed on June 6, 2008, without drawings. Accordingly, on July 10, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on July 30, 2008, the subject petition was filed. Petitioners assert that that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

> filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

A review of the record reveals that the application papers deposited on June 6, 2008, contain at least one method claim. Accordingly, the application is treated as a provisional application containing at least some disclosure of a process or method.

Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on July 10, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of June 6, 2008, without drawings as a part of the original disclosure. No petition fee is due.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to June 6, 2008, and for an indication in Office records that no (0) drawings were present on filing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Zoltnik et al.	:	
Application No. 61/059389	:	
Filing or 371(c) Date: 06/06/2008	:	
Attorney Docket Number:	:	DECISION
67824.726000	:	ON PETITION

This is a decision on the "Filing Date Petition Under 37 CFR 1.182 Requesting a Filing Date of June 6, 2008 as the As-Filed Application was Complete As-Filed," filed August 19, 2008.

The petition is granted.

The application was filed on June 6, 2008. On July 10, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and avers that the application does not require drawings for an understanding of the invention as the application contains method claims.

A review of the file reveals that the Applicant is correct, the specification contains method claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process, method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains 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 applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice mailed July 10, 2008, was mailed in error and is hereby withdrawn.

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of June 6, 2008, and an indication that no drawings were present or required on filing.

No petition fee has been charged and none is due.

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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WASHINGTON DC 20006-1109

In re Application of :
Zlotnik, et al. :
Application No. 61/059,432 : DECISION ON PETITION
Filed: June 6, 2008 :
Attorney Docket No. 67824.725000 :

This is a decision on the petition filed July 30, 2008, in response to the Notice of Incomplete Provisional Application mailed July 10, 2008, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of June 6, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on June 6, 2008. However, on July 10, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner states that drawings are not necessary for an understating of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a

drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the name of all the inventors.

The instant provisional application contains disclosure for which a drawing is usually not considered essential for a filing date 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 view of the above, the "Notice of Incomplete Provisional Application" mailed July 10, 2008, was mailed in error and is hereby **withdrawn**.

The Office should have instead mailed a Notice of Omitted Items in a Provisional Application.

As the instant petition was due to USPTO error, no petition fee was necessary.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of June 6, 2008, for indication that "0" sheets of drawings were present on filing, and for mailing of a "Notice of Omitted Items in a Provisional Application".

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE BLACK & DECKER CORPORATION
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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Agronin, et al. :
Application No. 61/059,508 : ON PETITION
Filed: June 6, 2008 :
Attorney Docket No. TN12604PR :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 4, 2009

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

The above application became abandoned for failure to file a reply to the Notice to File Missing Parts of Provisional Application mailed on June 13, 2008. The Notice set an extendable period for reply of two months for applicants to submit a provisional application cover sheet, together with a surcharge for its late filing. No reply having been received, the application became abandoned on August 14, 2008. The Office mailed a Notice of Abandonment on February 19, 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 an Application Data Sheet, and a late surcharge.

The file is being forwarded to the Office of Patent Application 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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Alexandria, VA 22313-1450
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DIW Apr-09

KRISTOPHER L. ANDERSON
13205 OVERLAND PASS
AUSTIN TX 78738

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OFFICE OF PETITIONS

In re Application of :
Robert Hanes :
Application Number: 61/059623 :
Filing Date: 06/06/2008 : ON PETITION
Attorney Docket Number: ETI-REV003 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 10, 2008, for failure to timely submit a reply to the Notice to File Missing Parts of Provisional Application mailed on July 9, 2008, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

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

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

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

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

On March 4, 2009, the present petition was filed, along with the petition fee, a provisional application cover sheet, the filing fee, and the surcharge for late submission of a provisional application filing fee and/or cover sheet.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SEP 16 2008

OFFICE OF PETITIONS

BRAHMAN KELLEHER
PO BOX 2514
HUNTINGTON BEACH CA 92647

In re Application of :
Brahman Thomas Kelleher :
Application No. 61/059,916 : DECISION ON PETITION
Filed: June 9, 2008 :
Attorney Docket No. pro per :

This is a decision on the request filed September 8, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (1), (3) and (6) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
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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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET.NO./TITLE
61/060,111	06/09/2008	Les Okrasa	

CONFIRMATION NO. 4845

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/03/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
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SEP 12 2008

In re Application of :
Radzik et al. :
Application No. 61/060,263 : ON PETITION
Filed: June 10, 2008 :
Atty Docket No. FR2008-053 :
USPS

This is a decision on the "PETITION UNDER § 1.17(f)," filed on August 12, 2008, which is treated as a petition under 37 CFR 1.182 requesting that the above-identified provisional application, without drawings, be accorded a filing date of June 10, 2008.

The petition is **GRANTED**.

The application was filed on June 10, 2008, without drawings. Accordingly, on June 18, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings. The Notice allowed a period for reply of two-months from its mailing date.

On August 12, 2008, the present petition was filed. Petitioners concede the at the application was filed without drawings, but argue that "the subject matter of the application would have been understood to a person having ordinary skill in the art even without those drawings."

MPEP § 601.01(f) states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

The arguments in the petition will be construed to mean that petitioner's counsel is asserting that drawings are not necessary for a filing date in this application. Drawings will not be further considered as a part of this case.

In view of the above, the "Notice" mailed June 18, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of June 10, 2008, without drawings as a part of the original disclosure.

No petition fee is due. The petition fee of $400.00 will be refunded to deposit account 18-1982, in due course.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to June 10, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3222.

Kenya McLaughlin
Petitions Attorney
Office of Petitions

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MAR 23 2009

OFFICE OF PETITIONS

Soquel Group, LLC
P.O. Box 691
Soquel CA 95073

In re Application of :
Bychkov :
Application No. 61/060,522 : ON PETITION
Filed: June 11, 2008 :
Attorney Docket No. INFONE.P067PRV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned August 24, 2008 for failure to timely submit a proper reply to the Notice to File Missing Parts of Provisional Application (Notice) mailed June 23, 2008. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely submitted. Notice of Abandonment was mailed February 27, 2009.

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

The instant application fails to satisfy (1) set forth above. Applicants have not submitted sufficient fees in response to the Notice. The provisional application filing fee is currently $220.00 and the required surcharge is $50.00. Petitioner has submitted $260.00. Thus, a fee of $10.00 remains due.

Any renewed petition must include a complete reply to the Notice.

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

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

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

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

Telephone inquiries concerning this decision should be directed to 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
www.uspto.gov

Soquel Group, LLC
P.O. Box 691
Soquel CA 95073

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of
Bychkov, et al.
Application No. 61/060,522
Filed: June 11, 2008
Atty. Dkt. No.: INFONE.P067PRV

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned August 24, 2008 for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 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. Notice of Abandonment was mailed February 27, 2009. A petition under 37 CFR 1.137(b) was filed March 4, 2009 and dismissed March 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply to the Notice, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/060,533	06/11/2008	Les Okrasa	

CONFIRMATION NO. 6514

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/03/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(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 NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/061,089	06/12/2008	Les Okrasa	

CONFIRMATION NO. 9280

COsmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/08/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OCT 0 6 2008

OFFICE OF PETITIONS

In re Application of :
AMMENDOLA, ALDO :
Application No. 61/061,937 :
Filed: June 16, 2008 :
Attorney Docket No. 40000331-0004-001 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed September 22, 2008, requesting that the above-identified application be accorded a filing date of June 16, 2008.

The above-identified application was deposited on June 16, 2008. On July 21, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the omitted drawings.

On September 22, 2008, petitioner submitted the present petition and two drawing sheets in response to the Notice of Incomplete Provisional Application. Petitioner asserted that drawings are not necessary for the understanding of the subject matter sought to be patented as the application contains at least one method claim. Petitioner requested that the Office accord the application a filing date of June 16, 2008.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains at least one method claim. 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).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was mailed in error and is hereby withdrawn.

The petition is **granted**. The application will be accorded a filing date of June 16, 2008, without any drawings as a part of the original disclosure. The petition fee of $400.00 is unnecessary and will be refunded in due course.

This matter is being referred to the Office of Patent Application Processing to accord the application a filing date of June 16, 2008, with zero "0" sheets of drawings as part of the original disclosure.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Adekar et al. :
Application No. 61/062,584 : ON PETITION
Filed: January 28, 2008 :
Attorney Docket No. 37075-0225-P1-US :
(223452)

This is a decision on the petition filed June 6, 2008, requesting that the above-identified application be accorded a filing date of January 28, 2008, rather than the presently accorded date of January 29, 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 January 28, 2008, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 471676886 US, showing a "JAN 28 2008" receipt stamp from the Philadelphia, PA USPS on the reverse side of the Express Mail label. The same Express Mail receipt number appears on the original "Provisional Application for Patent Cover Sheet."

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on January 28, 2008.

The petition is **GRANTED**.

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

This matter is being forwarded to the Office of Patent Application Processing for further **processing with a filing date of January 28, 2008, along with a corrected filing receipt.**

Telephone inquiries concerning this matter may be directed the undersigned at (571) 272-3206. All other inquiries should be directed to the Office of Patent Application 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
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PIERRE BIERRE
980 RIESLING DR.
PLEASANTON CA 94566-7220

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NOV 06 2009

OFFICE OF PETITIONS

In re Application of :
Bierre :
Application No. 61/062,660 :
Filed: January 28, 2008 :
Attorney Docket No. N/A :
For: METHOD OF TEACHING
GEOMETRY AS A HUMAN-COMPUTER
PARTNERSHIP

ON PETITION

This is a decision on the petition, filed January 2, 2009, requesting withdrawal of the holding of abandonment. The petition will be treated under 37 CFR 1.181.

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

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

This application became abandoned for failure to properly reply to the Notice to File Missing Parts of Provisional Application, mailed February 27, 2008, which set an extendable two month period to submit: (1) a replacement compact disc and a duplicate copy of the replacement compact disc that are labeled "COPY 1 REPLACEMENT" and "COPY 2 REPLACEMENT", respectively, with the creation date, in compliance with 37 CFR 1.52(e); (2) a statement that the two compact discs are identical, in compliance with 37 CFR 1.52(e)(4); and (3) a statement that the compact disc contains no new matter (see 37 CFR 1.52(e)(4). In addition, applicant was required to submit a transmittal letter in compliance with 37 CFR 1.52(e)(ii) and an amendment to the specification listing all of the files on the compact disc with the file names, dates of creation and file sizes consistent with the directory of the compact disc in compliance with 37 CFR 1.52(e).

Applicant filed a reply on April 28, 208.

On May 21, 2008, the Office mailed a Notice of Incomplete Reply (Nonprovisional) (should have been "Provisional") because the compact disc contained non-ASCII files. Applicant was required to submit (1) a replacement compact disc containing all of the files listed in the specification in ASCII format, and a duplicate copy of the replacement compact disc, in

compliance with 37 CFR 1.52(e); (2) a statement that the two compact discs are identical; and (3) a statement that the replacement compact disc contains no new matter (see 37 CFR 1.52(e)(4)). The period for reply remained as set in the February 27, 2008 Notice.

On certificate of mailing date June 10, 2008, applicant filed a letter arguing that the files on the April 28, 2008 compact discs contain only ASCII text.

No further reply being filed and no extensions of time being purchased, the application became abandoned on April 28, 2008. A Notice of Abandonment was mailed on November 3, 2008.

It is noted that the November 3, 2008 Notice of Abandonment lists an incorrect reason for the abandonment of the application. However, the application became abandoned by operation of law because applicant did not properly respond to the February 27, 2008 Notice. The fact that the November 3, 2008 Notice of Abandonment lists an incorrect reason for the abandonment does not negate the fact that applicant failed to file compact discs containing files in ASCII format within the period set for response.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**. Petitioner should file a petition to revive under 37 CFR 1.137(b) and the reply should be a complete response to the February 27, 2008 Notice and should include compact discs that contain files solely in ASCII format.

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

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

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

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

Telephone inquiries may be directed to the undersigned at (571) 272-3230. The undersigned's supervisor, Anthony Knight, may be reached at (571) 272-3687.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/062,981	01/31/2008	Lena Asmaro		1380

7590 03/04/2010

EXAMINER	

Lena Asmaro
1988 Waltz
Warren, MI 48091

ART UNIT	PAPER NUMBER

MAIL DATE	DELIVERY MODE
03/04/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. DEREK SHAPIRO
ENERGY INDEPENDENCE NOW, LLC
23 ATLANTIC BLVD.
STAMFORD, CT 06901

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Darek Shapiro, et al. :
Application No. 61/062,995 : DECISION ON PETITION
Filed: January 31, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed February 15, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to the Office of Patent Application Processing for processing of the reply received November 18, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREGORY L. ROTH
SUITE 780
6 CENTERPOINTE DRIVE
LA PALMA, CA 90623

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Rashid A. ZEINEH :
Application No. 61/063,121 : DECISION ON PETITION
Filed: January 31, 2008 : TO WITHDRAW
Attorney Docket No. P31316 : FROM RECORD
:

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

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that all of the acts noted above have been performed.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RASHID A. ZEINEH
1166 EAST VALENCIA DRIVE,
FULLERTON, CA 92831

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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SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM, WA 98225-2412

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JAN 29 2009

OFFICE OF PETITIONS

In re Application of
Straley et al.
Application No. 61/063,298
Filed: February 1, 2008
Attorney Docket No. P216075

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2008 and supplemented on January 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 27, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 28, 2008. A Notice of Abandonment was mailed November 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a transmittal letter in compliance with 37 CFR 1.52(e)(3)(ii) and an amendment to the specification, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

It is noted that petitioner claims small entity status under 37 CFR 1.27, therefore such status has been accorded.

Petitioner is reminded that this application will not be regarded as pending under any circumstances after twelve months from its filing date of February 1, 2008. See 35 USC 119(e)(3).

This application file is being referred to the Office of Patent Application Processing (OPAP) for appropriate processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (271) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Henrich et al. :
Application Number: 61/063322 :
Filing Date: 02/01/2008 : ON PETITION
Attorney Docket Number: MERZ 85 PRO :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 2, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

---

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

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

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

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

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

This application became abandoned on May 5, 2008, for failure to timely submit a timely and proper reply to the Notice to File Missing Parts of Provisional Application mailed on March 4, 2008, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. An Application Data Sheet and surcharge were filed on July 7, 2008, but were not accompanied by the required extension of time under 37 CFR 1.136(a). Notice of Abandonment was mailed on February 2, 2009.
Receipt of the petition and petition is acknowledged.

Notice of Abandonment was mailed on Notice Requiring Excess Claims Fees mailed on February 11, 2008. On April 1, 2008, a Notice stating that insufficient fees had been submitted was mailed, stating that no new time period was provided. Notice of Abandonment was mailed on January 23, 2009.

The petition lacks the required reply in that the Application Data Sheet (ADS) filed on July 7, 2008, a copy of which has been provided with the subject petition, is improper because it is not signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

A renewed petition, accompanied by a properly signed ADS, should be filed.

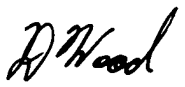
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

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JUN 23 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Henrich et al. :
Application Number: 61/063322 :
Filing Date: 02/01/2008 :
Attorney Docket Number: MERZ 85 PRO :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1] filed on May 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 5, 2008, for failure to timely submit a timely and proper reply to the Notice to File Missing Parts of Provisional Application mailed on March 4, 2008, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A paper styled as an Application Data Sheet and surcharge were filed on July 7, 2008, but were not

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

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

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

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

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

accompanied by the required extension of time under 37 CFR 1.136(a). Notice of Abandonment was mailed on February 2, 2009. On March 2, 2009, a petition under 37 CFR 1.137(b) was filed. On April 9, 2009, the petition was dismissed.

On May 18, 2009, the subject petition was filed, accompanied by an ADS.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/063,465	02/01/2008	Les Okrasa	#27080603

CONFIRMATION NO. 2695

Cosmic Descent, LLC
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **02/02/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of :
Hanigan, Marie H. :
Application No. 61/063,525 : ON PETITION
Filed: February 4, 2008 :
Attorney Docket No. 5820.692 :

This is a decision on the petition filed July 1, 2009, requesting that the above-identified application be accorded a filing date of February 4, 2008, rather than the presently accorded date of February 4, 2009. 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 February 4, 2008, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 887845645 US, showing a handwritten "date-in" of "2-4-08," as well as a "Feb 4, 2008" USPS receipt stamp. The same Express Mail receipt number appears on the original "Provisional Application for Patent Cover Sheet." Additionally, applicant has submitted a copy of the PTO Express Mail Log, showing the date of pickup as February 4, 2008 and includes Express Mail label No. EV 887845645 US.

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 February 4, 2008 at 4:52 p.m. at the Oklahoma City, OK USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on February 4, 2008.

USPTO records have been updated to indicate the filing date as February 4, 2008. A Corrected Filing Receipt was mailed on July 8, 2009.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require a petition fee. Accordingly, the $130.00 fee submitted with the instant petition is unnecessary and will be refunded to petitioner's credit card 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 Office of Patent Application Processing at (571) 272-4000.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RESODYN CORPORATION
SUITE 600
130 NORTH MAIN
BUTTE MT 59701

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APR 23 2008

In re Application of
Lawrence C. Farrar et al.
Application No. 61/063,906
Filed: February 7, 2008
Title of Invention: **THERMAL SPRAY FORMATION OF POLYMER COMPOSITIONS**

: DECISION GRANTING PETITION

This is a decision on the petition, filed March 21, 2008, under 37 CFR 1.53 requesting that the above-identified provisional application be accorded a filing date of February 7, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The application was filed on February 7, 2008, however the Office of Initial Patent Examination mailed a "Notice of Incomplete Provisional Application" on March 5, 2008 stating that the application had been deposited without drawings.

The present petition argues that several drawings were included on filing and that those drawings could be found behind Tabs C and D. Nothing in Tabs C and D is identied as a drawing figure and nothing in Brief Description of Drawings correlates to the material found in Tabs C and D.

However, it has been PTO 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] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed November 15, 2006, is hereby withdrawn. The application is accorded a filing date of February 7, 2008 without drawings.

[1] MPEP 601.01(f).

The petition is **GRANTED**. In view thereof, no petition fee is due. The petition fee in the amount of $400.00 will be refunded in due course.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 7, 2008, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MCDONALD HOPKINS LLC
600 Superior Avenue, East
Suite 2100
Cleveland, OH 44114-2653

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of Reznar et al. :
Application No. 61/063,909 : Decision on Petition
Filing Date: February 7, 2008 :
Attorney Docket No. 23610-00196 :

This is a decision in response to the petition filed April 28, 2008, requesting the application be accorded a filing date of February 7, 2008.

The petition is **granted**.

The application was filed February 7, 2008.

The Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" on February 26, 2008. The Notice stated one or more drawings did not appear to be part of the application as filed and that a filing date would be accorded upon the submission of the necessary drawings.

In response, the present petition was filed. Petitioner alleges four sheets of drawings were filed with the original application.

Petitioner has submitted a postcard receipt acknowledging receipt of "4 Sheet(s) of Drawing(s)" on February 7, 2008.[1] Therefore, the Office is persuaded four sheets of drawings were part of the originally filed application but were later misplaced by the Office.

The Office notes the drawings, as scanned in the Office's electronic file wrapper, are not entirely legible. However, the drawings are sufficient to accord the application a filing date of February 7, 2008.

The application will be accorded a filing date of February 7, 2008.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Notice mailed February 26, 2008, was sent in error and is hereby vacated.

The petition fee of $400 has been credited to petitioner's deposit account.

The Office of Patent Application Processing will be informed of the instant decision will process the application with a filing date of February 7, 2008, using the papers filed on February 7, 2008, and the copy of the four sheets of drawings filed April 28, 2008.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MATHEWS, SHEPHERD,
MCKAY, & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON NJ 08540

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Soloman et al.	:	
Application No. 61/064088	:	
Filing or 371(c) Date: 02/15/2008	:	
Attorney Docket Number:	:	DECISION
4892-107P US	:	ON PETITION

This is a decision on the "Petition for Original Filing Date," filed March 24, 2008, requesting the above-identified application be accorded a filing date of February 15, 2008. The petition is properly treated under 37 CFR § 1.53(e).

The petition is granted.

The application was filed on February 15, 2008. On March 7, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (hereinafter "Notice"), informing Applicant, *inter alia*, that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the present petition and avers that the figures referred to in the application are not necessary for an understanding of the subject matter sought to be patented.

The application complies with the patent statute and regulations based upon applicant's assertion that the figures are not necessary for an understanding of the invention. Based upon Applicant's assertion, a filing date may be accorded the application papers deposited on February 15, 2008. Accord MPEP 601.01(f).

In view of the above, the Notice mailed March 7, 2008, was mailed in error and is hereby withdrawn.

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of February 8, 2008, using the application papers filed on that date, and an indication that no drawings were present or required on filing.

A refund of the petition fee has been credited to Applicant's deposit account.

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

Derek L. Woods
Attorney
Office of Petitions

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KASTLEHOUSE HOME COMFORT ACCESSORIES AND TOYS
P.O. BOX 25374
WINSTON-SALEM NC 27114

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OFFICE OF PETITIONS

In re Application of	:	
Bobbie A. Bullock	:	
Application No. 61/064,146	:	ON PETITION
Filed: February 19, 2008	:	
For: KASTLEHOUSE TM HOME COMFORT ACCESSORIES AND KASTLEHOUSE TOYS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2008 and supplemented on January 2, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Provisional Application mailed March 7, 2008.

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

The required petition fee of $810.00 has not been received.

As to the inquiry regarding the payment of $145.00, the payment has been applied to the filing fee ($110.00) and the surcharge fee of ($25). A balance of $10.00 remains.

As to the Notice of Abandonment, the Notice was mailed to applicant to inform applicant that the application was abandoned for failure to reply to the Notice mailed March 7, 2008.

Further, even though applicant submitted an extension of time on January 2, 2009, without the fee, 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).

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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BLANCHARD & ASSOCIATES
566 WEST ADAMS STREET
SUITE 600
CHICAGO, IL 60661

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of :
Wei Jin et al :
Application No. 61/064,243 : DECISION ON PETITION
Filed: February 25, 2008 :
Attorney Docket No. IP-462A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the provisional application cover sheet and surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed March 14, 2008, is accepted as having been unintentionally delayed.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COVINGTON & BURLING, LLP
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1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2401

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OFFICE OF PETITIONS

In re Application of :
Nicoletta Almirante, et. al. :
Application No. 61/064,276 : ON PETITION
Filed: February 26, 2008 :
Attorney Docket No. 032045.0001-US00 :

This is a decision on the petition under 37 CFR 1.137(b), filed on November 14, 2008, to revive the above-identified application.

The application became abandoned for failure to reply to the Notice to File Missing Parts of Provisional Application, mailed March 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Application Data Sheet (ADS) and the $50 surcharge; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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MAR 31 2009

OFFICE OF PETITIONS

In re Application of :
Mons, et al. :
Application No. 61/064,345 : DECISION
Filed/Deposited: 29 February, 2008 :
Attorney Docket No. 030324-00004 :

This is a decision on the petition filed on 19 May, 2008, pursuant to 37 C.F.R. §1.57, seeking to have accorded a filing date of 29 February, 2008, for the instant application based upon a showing that the omitted drawings/figures were present in the prior-filed co-pending *provisional* application to which this application seeks to claim 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 29 February, 2008.

On 16 March, 2008, the Office mailed a Notice of Incomplete Provisional 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 19 May, 2008, Petitioner filed, *inter alia*, the instant petition with fee, no amendment and 38 sheets of drawings, FIGS. 1 - 38, averred to be copies from the parent of the previously omitted drawing FIGS. 1 - 38, averred to have been present upon deposit of the parent/previously-filed *Provisional Application No. 60/909,072* (the '072 application, filed on 30 March, 2007), to which application a priority claim was made in the instant application.

Petitioner asserts that the drawings/figures were inadvertently omitted from the instant application; and points to the prior filed '072 application, 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 an amendment under the rule.

It is noted that a provisional application is not entitled to the right of priority under 35 U.S.C. §119 or §365(a) or 37 C.F.R. §1.55, or to the benefit of an earlier filing date under 35 U.S.C. §120, §121 or §365(c) or 37 C.F.R. §1.78 of any other application[1]*. (The provisions of 37 C.F.R. §1.57 apply to claims for priority properly made pursuant to 37 C.F.R. §1.78 and §1.55.*

*Thus, the regulations at 37 C.F.R. §1.78 provide for "[a] nonprovisional application or international application designating the United States of America" to claim priority to another application. Similarly, the regulations at 37 C.F.R. §1.55 provide for "[a]n applicant in a nonprovisional application may under certain circumstances claim priority ***.")*

Moreover, the provisions of 37 C.F.R. § 1.57 require the applicant to file an amendment which requests the entry of the previously omitted drawings. However, Petitioner, as one registered to practice before the office, is aware that such an amendment cannot be entered because provisional applications cannot be amended.[2]

A review of Application No. 60/909,072 has been made for the sake of completeness. This review did not find the drawings that Petitioner is seeking to add to the present application by the way of petition and as such the drawings are not considered to be completely contained in the prior application as required by 37 C.F.R. §1.57.

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 and/or is directed to a method/system (*e.g.*: Specification: page 1 (title), page 8 (paragraphs 0018 and 0019)). 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 Provisional Application.

---

[1] See 37 C.F.R. § 1.53(c)(4)
[2] See 37 C.F.R. §1.53(c). See also MPEP 601.01(b).

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.

Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to 29 February, 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.

Anthony Knight
Supervisor
Office of Petitions

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JUN 17 2008

OFFICE OF PETITIONS

CAROLYN M. DRY
1324 SKY LINE DRIVE
WINONA MN 55987

In re Application of :
Carolyn Dry : DECISION ON PETITION
Application No. 61/064,753 :
Deposited: March 24, 2008 :
Title: Self Repairing Tires :

This is a decision on the petition filed May 29, 2008, requesting that the above-identified provisional application be accorded a filing date of May 24, 2008.

The application was deposited on March 24, 2008. However, on May 7, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, on May 29, 2008, the present petition was filed. Petitioner states that drawings are not necessary for an understanding of the claimed subject matter and, therefore, the application should be accorded the March 24, 2008 filing date without any drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence). The same practice has been followed in composition applications. The above application contains both process claims and discloses laminated structures.

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.

The petition is **granted to the extent indicated**. A petition fee has not been charged and none is required.

Petitioner is also reminded, the filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application. See 35 U.S.C. 111(b)(4) and 37 C.F.R. 1.53(c). Thus, in a provisional application, petitioner does not have the option of amending the application to include figures on the basis that those figures do not constitute new matter. As such only the application papers filed on March 24, 2008 will be considered part of the application. The documents (specification, abstract and claims) filed March 19, 2008 will not be used to amend the application.

The application will be referred to the Office of Patent Application Processing for further processing with only the papers present on filing and is hereby accorded a filing date of **March 24, 2008**, without drawings as part of the original disclosure

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Wilson, et al. :
Application No. 61/065,044 : DECISION
Filed: 8 February, 2008 :
Attorney Docket No. SAMSF 3.8-005 :

This is a decision on the petition, filed on 9 February, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

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

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

As to the Request to Withdraw
the Holding of Abandonment

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

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

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Part (coversheet/ADS, surcharge) (copy enclosed) mailed on 5 March, 2008, with reply due absent extension of time on or before 5 May, 2008.

The application went abandoned by operation of law after midnight 5 May, 2008.

On 9 May, 2008, Petitioner filed a reply in the form, inter alia, of a coversheet, and ADS and surcharge, but it appears that Petitioner failed to include therewith either:

- a signed and dated certificate of mail pursuant to 37 C.F.R. §1.8; or
- (in the alternative) a request and fee for extension of time to make timely the reply, and it appears that there was no general fee authorization filed on deposit of the application.

The Office mailed the Notice of Abandonment on 2 February, 2009.

On Monday, 9 February, 2009, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.181, averring timely reply with copies of the materials averred to have been submitted on 9 May, 2008—it is noted that the date-stamped ("MAY 09 2008") receipt card reflects submission "via FIRST CLASS MAIL"—but without certificate of mailing—and not filing via U.S. Postal Service Express Mail pursuant to 37 C.F.R. §1.10.

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

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

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

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

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

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

***

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

---

1. *See*: MPEP §711.03(c) (I)(B).

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

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

STATUTES, REGULATIONS

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

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

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

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

SEP 2 1 2009

OFFICE OF PETITIONS

In re Application of :
Wilson, et al. :
Application No. 61/065,044 : DECISION
Filed: 8 February, 2008 :
Attorney Docket No. SAMSF 3.8-005 :

This is a decision on the petition, filed on 12 May, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 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. (However, it does not appear that a terminal disclaimer and fee are due here.)

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 (coversheet/ADS, surcharge) mailed on 5 March, 2008, with reply due absent extension of time on or before 5 May, 2008.

The application went abandoned by operation of law after midnight 5 May, 2008.

On 9 May, 2008, Petitioner filed a reply in the form, inter alia, of a coversheet, and ADS and surcharge, but it appears that Petitioner failed to include therewith either:

- a signed and dated certificate of mail pursuant to 37 C.F.R. §1.8; or
- (in the alternative) a request and fee for extension of time to make timely the reply, and it appears that there was no general fee authorization filed on deposit of the application.

The Office mailed the Notice of Abandonment on 2 February, 2009.

On Monday, 9 February, 2009, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.181, averring timely reply with copies of the materials averred to have been submitted on 9 May, 2008—it is noted that the date-stamped ("MAY 09 2008") receipt card reflects submission "via FIRST CLASS MAIL"—but without certificate of mailing—and not filing via U.S. Postal Service Express Mail pursuant to 37 C.F.R. §1.10. Petitioner's dilemma was not that he failed to reply, but, rather, that his reply was incomplete—when Petitioner's delay required a two- (2-) month extension of time to complete the reply, Petitioner submitted only a request and fee for a one- (1-) month extension of time. The petition was dismissed on 12 March, 2009.

On 12 May, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), pointed to the previously filed reply and made the statement of unintentional delay.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

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

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

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

COPY MAILED

JUL 25 2008

In re Application of	:	
Don J. Mahuran, et. al.	:	
Application No. 61/065,684	:	DECISION GRANTING PETITION
Filed: February 13, 2008	:	
Attorney Docket No. 43072-0009-P2-US	:	
(418279)	:	

This is a decision on the petition under 37 CFR 1.10(c), filed March 24, 2008, requesting that the above-identified application be accorded a filing date of February 13, 2008, rather than the presently accorded date of February 14, 2008. This is also a decision on the petition under 37 CFR 1.182 filed on July 15, 2008, to expedite the handling of the instant petition.

The petition under 37 CFR 1.182 is **granted.**

Petitioner 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 February 13, 2008, pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EV 520455367 US showing a USPS receipt date stamp of February 13, 2008. The same Express Mail receipt number was placed on the original patent application transmittal letter of record in the official file.

To substantiate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on February 13, 2008, 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 February 13, 2008 at the Philadelphia, PA 19104 USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 13, 2008. Accordingly, the petition under 37 CFR 1.10 (c) is **granted.**

This application is being referred to the Office of Patent Application Processing **for correction of the filing date to February 13, 2008 and for issuance of a corrected filing receipt.**

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

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JUN 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Patricia Erberich	:	
Application No. 61/065892	:	
Filing or 371(c) Date: 02/15/2008	:	
Attorney Docket Number:	:	DECISION
WERB-1049377	:	ON PETITION

This is a decision on the "Response to Notice of Incomplete Provisional Application," filed March 27, 2007, requesting the above-identified application be accorded a filing date of February 15, 2008.

The petition is granted.

The application was filed on February 15, 2008. On March 4, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and avers that three (3) pages of drawings were filed in the application on February 15, 2008. In support of this assertion, Applicant files a copy of, inter alia, his return-receipt postcard acknowledging receipt of three (3) pages of drawings by this Office on February 15, 2008.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

In view of the above, the Notice was mailed in error and is hereby withdrawn.

A refund of the petition fee has been credited to Petitioner's deposit account as authorized in the petition.

The copy of three (3) pages of drawings filed with the present petition will be used for examination purposes.

This application is being forwarded to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of February 15, 2008, and an indication that three (3) pages of drawings were present on February 15, 2008, using the three (3) pages of drawings filed with the present petition on March 27, 2008.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/683,953	03/08/2007	Peter M. Eisenberg	63018US002 (1004-272US01)

CONFIRMATION NO. 1834

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CONVERSION REQUEST

OC000000028401037

Date Mailed: 02/21/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/24/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,120.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAIL

FEB 20 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:
EISENBERG, PETER M., et al.
Serial No.: 11/683,953
Filed: March 08, 2007
For: **PRINT DEVICE FOR SPECIMEN TRACKING AND MANAGEMENT**

DECISION ON PETITION
TO CONVERT APPLICATION

This is a decision on the request for conversion which is being treated as a petition under 37 C.F.R. § 1.53(c)(2), filed October 24, 2007, to convert the above-identified application to a provisional application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c)(2).

The petition is **GRANTED.**

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing as a PROVISIONAL application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c), including the assignment of a new provisional application number.

The new provisional application number will be communicated to the applicant by OIPE in due course.

Michael Hrabik
Quality Assurance Specialist
Technology Center 2600
Communications
(571) 272-3068

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/960,646	12/19/2007	Jean Maraval	ECMC.002A

CONFIRMATION NO. 4895

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

CONVERSION REQUEST

Date Mailed: 02/26/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/18/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,121.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/895,203	08/24/2007	Santoria Warren	

CONFIRMATION NO. 9937

CONVERSION REQUEST

Santoria Warren
Apt. K-6
3000 Ford Rd.
Bristol, PA 19007

OC000000028502222

Date Mailed: 02/26/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on , to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,122.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/895,203	08/24/2007	Santoria Warren	

CONFIRMATION NO. 9937

Santoria Warren
Apt. K-6
3000 Ford Rd.
Bristol, PA 19007

CONVERSION REQUEST

OC000000028314146

Date Mailed: 02/14/2008

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(2) TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/13/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(2).

A grantable request under 37 CFR 1.53(c)(2) to convert a non-provisional application to a provisional application must be accompanied by the processing fee set forth in 37CFR 1.17(q) and be filed prior to the earliest of: abandonment of the application filed under 37 CFR 1.53(b); payment of the issue fee on the application filed under 37 CFR 1.53(b); expiration of twelve months after the filing date of the application filed under 37 CFR 1.53(b); or the filing of a request for a statutory invention registration under 37 CFR 1.293 in the application filed under 37 CFR 1.53(b). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(q).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Customer Service at (571) 272-4000, or 1-800-PTO-9199.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Initial Patent Examination

Copied from 11895203 on 02/26/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/634,833	12/06/2006	Reid Bornhoft	22570-092001

CONFIRMATION NO. 3967

CONVERSION REQUEST

26194
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000028526615

Date Mailed: 02/28/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/05/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,123.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/634,827	12/06/2006	Luke Strawn	22570-083001

CONFIRMATION NO. 3959

CONVERSION REQUEST

26194
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC00000028526729

Date Mailed: 02/28/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/05/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,124.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/893,918	08/17/2007	Michael Claude Vellard	11808-004-999

CONFIRMATION NO. 7097

59922
BIOMARIN PHARMACEUTICAL INC.
105 DIGITAL DRIVE
NOVATO, CA 94949

CONVERSION REQUEST

Date Mailed: 03/18/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **02/01/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,125.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/971,204	01/08/2008	Adam Blake Abstein	

CONFIRMATION NO. 4435

Rodney Parrish
617 Edgefield Rd
Fort Worth, TX 76107

CONVERSION REQUEST

OC00000029069192

Date Mailed: 03/25/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/06/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,126.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/750,418	05/18/2007	Luca D. Farioli	63050US002

CONFIRMATION NO. 1048

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CONVERSION REQUEST

OC00000002908790

Date Mailed: 03/27/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/10/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,127.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

11/5/07

In re Application of:
Walker, Garry J. et al
Serial No.: 11/690,312
Filed: March 23, 2007
Docket: 62916US002
Title: RESPIRATOR FLOW CONTROL APPARATUS AND METHOD

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Oct. 10, 2007 under 37 CFR 1.53 (C)(2).

The petition filed on Oct. 10, 2007 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 13-3723 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Frederick R. Schmidt, Director
Technology Center 3700

Copied from 11690312 on 03/26/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/690,296	03/23/2007	Garry J. Walker	62916US002

CONFIRMATION NO. 3502

CONVERSION REQUEST

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

OC00000002908879 2

Date Mailed: 03/27/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/10/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,128.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

11/5/07

In re Application of:
Walker, Garry J. et al
Serial No.: 11/690,296
Filed: March 23, 2007
Docket: 62881US002
Title: RESPIRATOR FLOW CONTROL APPARATUS AND METHOD

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Oct. 10, 2007 under 37 CFR 1.53 (C)(2).

The petition filed on Oct. 10, 2007 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 13-3723 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Frederick R. Schmidt, Director
Technology Center 3700

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UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/690,312	03/23/2007	Garry J. Walker	62881US002

CONFIRMATION NO. 3524

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CONVERSION REQUEST

OC000000029088800

Date Mailed: 03/27/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/10/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,129.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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FROM DIRECTOR'S OFFICE

OCT 25 2007

TECHNOLOGY CENTER 3600

3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

In re application of :
Luca D. Farioli et al. :
Application No. 11/750,418 : DECISION ON PETITION
Filed: May 18, 2007 : TO CONVERT TO A
For: METHOD FOR TRACKING : PROVISIONAL APPLICATION
PROCEDURES PERFORMED :
ON PERSONAL PROTECTION
EQUIPMENT AND ACTIONS
OF INDIVIDUALS

This is a decision on the petition under 37 CFR 1.53(c)(2) filed October 10, 2007, to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c)(2).

The requirements for the granting of such a petition are: (A) a petition requesting conversion and the petition fee set forth in 37 CFR 1.17(q), and (B) the petition must be filed prior to the abandonment of the 37 CFR 1.53(b) application, the payment of the issue fee, the expiration of 12 months after the applications filing date, or the filing of a request for a statutory invention registration under 37 CFR 1.293, whichever event is earlier. Upon the grant of such a petition no fees properly paid in the 37 CFR 1.53(b) application are entitled to be refunded.

Since all of the requirements for conversion to a provisional application under 37 CFR 1.53(c)(2) have been met, the petition is **GRANTED**.

The application will be assigned a new provisional application number and will be further processed by the Office of Initial Patent Examination (OIPE) as a **PROVISIONAL** application under 35 U.S.C. 111(b) and 37 CFR 1.53(c)(2). The new provisional application number will be communicated to applicant by OIPE in due course.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/832,809	08/02/2007	Alkis S. Rappas	FN-0004

CONFIRMATION NO. 6783

CONVERSION REQUEST

77003
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
SUITE 3100
CHICAGO, IL 60606

OC00000002921774

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,130.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/832,809	08/02/2007	Alkis S. Rappas	FN-0004	6783

77003 7590 03/07/2008

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
SUITE 3100
CHICAGO, IL 60606

EXAMINER	
TOOMER, CEPHIA D	
ART UNIT	**PAPER NUMBER**
1797	

MAIL DATE	DELIVERY MODE
03/07/2008	PAPER

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

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

Copied from 11832809 on 04/02/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CST

3-7-08

In re application of :
Alkis S. Rappas et al :
Serial No. 11/832,809 : DECISION
Filed: August 2, 2007 : ON PETITION
For: CATALYST-LOADED COAL COMPOSITIONS, :
PROCESSES FOR PREPARING SAME, AND :
INTEGRATED PROCESSES FOR :
PREPARATION OF METHANE FROM COAL :

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed January 31, 2008.

A review of the application record indicates that all of the requirements for converting the above-identified application to a provisional application under 37 CFR 1.53(c)(2) have been met.

The petition is **GRANTED.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for conversion to a provisional application.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 11832809 on 04/02/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/770,963	06/29/2007	Yifan Zhang	62943US002

CONFIRMATION NO. 7202

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CONVERSION REQUEST

OC00000029218377

Date Mailed: 04/03/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/25/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,131.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/770,963	06/29/2007	Yifan Zhang	62943US002	7202

32692 7590 12/07/2007
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
12/07/2007	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

Copied from 11770963 on 04/02/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CST

12-7-07

In re application of
Yifan Zhang et al
Serial No. 11/770,963
Filed: June 29, 2007
For: ACCELERATING A NINHYDRIN REACTION

DECISION
ON PETITION

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed October 25, 2007.

A review of the application record indicates that all of the requirements for converting the above-identified application to a provisional application under 37 CFR 1.53(c)(2) have been met.

The petition is **GRANTED.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for conversion to a provisional application.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/974,742	10/15/2007	Adam Sah	16113-0954001

CONFIRMATION NO. 6966

CONVERSION REQUEST

26192
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000029218756

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/30/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,132.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/829,705	07/27/2007	Mary K. Riley	PMN2331US1

CONFIRMATION NO. 1625

CONVERSION REQUEST

71733
BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007131
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/10/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,133.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
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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
12/038,662	02/27/2008	Seppo Juhani Pyhalammi	042933/341401

CONFIRMATION NO. 6063

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

CONVERSION REQUEST

OC000000029219690

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/26/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,134.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/690,120	03/22/2007	Steven Teig	TBUL.P0079

CONFIRMATION NO. 3167

48947
ADELI & TOLLEN, LLP
1875 CENTURY PARK EAST, SUITE 1360
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC00000002922010 8

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **06/26/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,135.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/155,463	06/17/2005	Rithesh R. Prasad	07844-684001/P617

CONFIRMATION NO. 4723

CONVERSION REQUEST

21876
FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

OC000000029220367

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/22/2005,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,136.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

MAILED

SEP 04 2007

Technology Center 2100

Applicant : Rithesh R. Prasad)
Serial No. : 11/155,463)
Filed : June 17, 2005)
Title : RULE-BASED STRUCTURAL)
EXPRESSION OF TEXT AND) DECISION ON PETITION
FORMATTING ATTRIBUTES IN)
DOCUMENTS

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53(c)(2).

The petition filed on November 22, 2005 requests conversion to a provisional application under 37 CFR 1.53(c)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53(c)(2)(I)(A)-(D).

The petition is GRANTED. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Any inquiry regarding this decision should be directed to Pat Salce, Quality Assurance Specialist, at (571) 272-3610.

Pat Salce

Pat Salce
Quality Assurance Specialist
Technology Center 2100

Copied from 11155463 on 04/02/2008

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UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/857,379	09/18/2007	James Coleman	IGT1P456/P-1285

CONFIRMATION NO. 1783

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

CONVERSION REQUEST

OC00000029223177

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/18/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,137.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of:
COLEMAN, JAMES et al
Serial No.: 11/857,379
Filed: Sep. 18, 2007
Attorney Docket: IGT1P456/P-1285
Title: Multi-Card Bingo Game Features

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53 (C)(2).

The petition filed on Mar. 18, 2008 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged in accordance with 37 CFR 1.17(q) to Deposit Account 504480.

The petition is **GRANTED.**

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing as a PROVISIONAL application under 35 U.S.C. § 111(b) and 37 C.F.R. §1.53(b)(2), including the assignment of a new provisional application number.

The new provisional application number will be communicated to the applicant by OIPE in due course.

Henry C. Yuen
Special Programs Examiner
Technology Center 3700

Copied from 11857379 on 04/02/2008

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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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/796,824	04/30/2007	Galen Jon White	20481/YOD (ITWO:0157)

CONFIRMATION NO. 4837

52145
FLETCHER YODER (ILLINOIS TOOL WORKS INC.)
P.O. BOX 692289
HOUSTON, TX 77269-2289

CONVERSION REQUEST

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/04/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,138.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/796,824	04/30/2007	Galen Jon White	20481/YOD (ITWO:0157)	4837

52145 7590 03/17/2008

FLETCHER YODER (ILLINOIS TOOL WORKS INC.)
P.O. BOX 692289
HOUSTON, TX 77269-2289

EXAMINER	
SHAW, CLIFFORD C	

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
03/17/2008	PAPER

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

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

Copied from 11796824 on 04/02/2008

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

CST

3-17-08

In re application of :
Galen Jon White :
Serial No. 11/796,824 : DECISION
Filed: April 30, 2007 : ON PETITION
For: WELDING SYSTEM AND METHOD :
WITH IMPROVED WAVEFORM :

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed March 4, 2008.

A review of the application record indicates that all of the requirements for converting the above-identified application to a provisional application under 37 CFR 1.53(c)(2) have been met.

The petition is **GRANTED.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for conversion to a provisional application.

Christine Tierney
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/228,866	09/16/2005	Charles W. Extrand	2267.1033US01

CONFIRMATION NO. 9260

CONVERSION REQUEST

24113
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

OC000000029224521

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **09/11/2006,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,139.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/228,866	09/16/2005	Charles W. Extrand	2267.1033US01	9260

24113 7590 04/01/2008

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER	
MUI, CHRISTINE T	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
04/01/2008	PAPER

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

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

Copied from 11228866 on 04/02/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CST

4-1-08

In re application of :
Charles W. Extrand :
Serial No. 11/228,866 : DECISION
Filed: September 16, 2005 : ON PETITION
For: MICROFLUIDIC DEVICE WITH :
ANISOTROPIC WETTING SURFACES :

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed September 11, 2006.

A review of the application record indicates that all of the requirements for converting the above-identified application to a provisional application under 37 CFR 1.53(c)(2) have been met.

The petition is **GRANTED.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for conversion to a provisional application.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 11228866 on 04/02/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/011,281	01/25/2008	Herman Lock	07-34US

CONFIRMATION NO. 7334

23693
Varian Inc.
Legal Department
3120 Hansen Way D-102
Palo Alto, CA 94304

CONVERSION REQUEST

OC000000029225014

Date Mailed: 04/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/24/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,140.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/028,787	02/09/2008	Kelsey K. Anderson	07-662

CONFIRMATION NO. 7501

719
Caterpillar Inc.
Intellectual Property Dept.
AB 6490
100 N.E. Adams Street
PEORIA, IL 61629-6490

CONVERSION REQUEST

Date Mailed: 04/03/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **02/15/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,141.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/634,823	12/06/2006	Luke Strawn	T501.141.101

CONFIRMATION NO. 3955

CONVERSION REQUEST

26194
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000029248036

Date Mailed: 04/03/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/05/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,142.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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2/15/08

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of:
Strawn, Luke et al.
Serial No.: 11/634,823
Filed: Dec. 6, 2006
Attorney Docket: T501.141.101
Title: IMPLANTABLE MONITORING DEVICE ACTIVATOR AND SYSTEM INCLUDING MULTIPLE MODES

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53 (C)(2).

The petition filed on Dec. 5, 2007 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 06-1050 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

Copied from 11634823 on 04/03/2008

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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
	01/10/2008	Joseph E. Hoffman	JEM-8825

CONFIRMATION NO. 6222

CONVERSION REQUEST

26294
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND, OH 44114

OC000000030073477

Date Mailed: 05/27/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/03/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,143.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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TAROLLI, SUNDHEIM,
COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND OH 44114

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Hoffman, et al. :
Application No. 61/066,143 : DECISION ON PETITION
Filed/Deposited: 9 July, 2008 :
Attorney Docket No. JEH-018080 US PRO :

This is a decision on the petition filed on 10 June, 2008, and properly considered as a petition requesting that the instant application be accorded a filing date of 10 January, 2008, under 37 C.F.R. §1.53.

The petition considered under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

It appears that the instant application was sought to be deposited on 10 January, 2008, as a nonprovisional application (Application No. 11/972,170).

The EFS Acknowledgement evidences that no drawings were present on deposit.

On 6 February, 2008, the Office mailed a Notice of Incomplete Application and that the application had not been accorded a filing date (to wit: "the application was deposited without drawings. 35 U.S.C. §113 (first sentence) ***")

The Office of Patent Application Processing (OPAP) indicated that Petitioner might:

- contend via petition that the application was complete upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (*see*: MPEP §503; also: an acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. *See*: 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007)) along with a copy of specification/claim(s)/drawings/figures; or

- seek to amend and so add inadvertently omitted items pursuant to 37 C.F.R. §1.57(a) if a

claim for priority and an incorporation by reference was contained in the specification pursuant to 37 C.F.R. §1.55 or §1.78; or

- submit a copy of the drawings/figures and accept the date of that submission as the filing date.

OPAP set a two- (2-) month period for reply.

On 3 April, 2008, Petitioner sought to convert the nonprovisional application to a provisional application, which request was granted on 27 May, 2008.

On 27 May, 2008, the Office mailed a Notice of Incomplete Application and that the application had not been accorded a filing date (to wit: "the application was deposited without drawings. 35 U.S.C. §113 (first sentence) ***")

The Office of Patent Application Processing (OPAP) indicated that Petitioner might:

- contend via petition that the application was complete upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (*see*: MPEP §503; also: an acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. *See*: 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007)) along with a copy of specification/claim(s)/drawings/figures; or

- submit a new application—amendment of provisional applications is not permitted (MPEP §601.01(b)).

OPAP set a two- (2-) month period for reply.

On 10 June, 2008, Petitioner Gary J. Pitzer (Reg. No 39,334)) submitted a petition with no documentary support, and averred only that "drawings were not necessary for an understanding of the subject matter for such provisional application because the originally filed application describes the subject matter with sufficient detail in the absence of drawings to understand the subject matter sought to be patented." Petitioner further averred that "claims are not required for a provisional patent application"—however, that is not the issue here.

A review of the application indicates that at no point is the subject matter identified as a process, a composition, a method or such—in fact throughout the application the subject matter sought to be patented is described and/or otherwise referred to as the "device," the "apparatus," with "the sides," "the axel," "the platform," and such.

ANALYSIS

A search of the official file reveals that:

- on 10 January, 2008, Petitioner deposited via EFS files associated with transmittal of the instant application, including specification, claims and abstract, but without drawings;
- the Office record reflected that the drawings were missing upon deposit;
- the three- (3-) page Electronic Acknowledgement Receipt evidences no drawings;
- Petitioner acknowledges that drawings were inadvertently omitted.

Nonetheless, Petitioner averred a filing date is due because "drawings were not necessary for an understanding of the subject matter for such provisional application because the originally filed application describes the subject matter with sufficient detail in the absence of drawings to understand the subject matter sought to be patented."

It is the practice of the Office to treat an application that contains at least one process or method (claim) as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f).

While MPEP §601.01(f)(D) does foresee according a filing date in an application deposited without drawings and with the subject matter of an article or apparatus, that provision is constrained by the requirement "where sole distinguishing feature is presence of a particular material."

Such is not the case here.

As of this writing it does not appear that Petitioner has made a satisfactory showing for relief under 37 C.F.R. §1.53.

Thus, as of this writing, the Notice mailed on 27 May, 2008, is not determined to be in error and will not be disturbed. The error was not that of the Office and the fee is not waived.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.

CONCLUSION

The petition considered under 37 C.F.R. §1.53 is **dismissed**.

This application is released to OPAP for further processing consistent with this decision, and no filing date is accorded.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

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

[2] 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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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
12/059,257	03/31/2008	Miles Aram De Forest	1512/25

CONFIRMATION NO. 4656

CONVERSION REQUEST

62056
JENKINS, WILSON, TAYLOR & HUNT, P.A.
3100 TOWER BOULEVARD
SUITE 1200 UNIVERSITY TOWER
DURHAM, NC 27707

OC00000029280139

Date Mailed: 04/07/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/03/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,144.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
12/057,598	03/28/2008	Jeffrey Ford	1427/23

CONFIRMATION NO. 1636

25297
JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD., Suite 1200
DURHAM, NC 27707

CONVERSION REQUEST

OC000000029280649

Date Mailed: 04/07/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/04/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,145.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/033,484	02/19/2008	Trevor Lucas	1941/A58

CONFIRMATION NO. 6415

2101
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

CONVERSION REQUEST

OC000000029396098

Date Mailed: 04/14/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/09/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,146.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Lucas, et al. :
Application No. 61/066,146 : DECISION
Filed/Deposited: 19 February, 2008 :
Attorney Docket No. 1941/A58 :

This is a decision on the petition filed on 17 April, 2008, seeking a filing date of 19 February, 2008, for the drawing FIGS 1 and 2 described in the specification, and properly considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

The instant application was deposited on 19 February, 2008, apparently without a provisional application sheet because the application was given nonprovisional Application No. 12/033,484.

On 2 April, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application indicating that the application had not been accorded a filing date because it had been filed without at least one drawing as required under 35 U.S.C. §113 (first sentence).

(The Office withdrew the Notice on 14 April, 2008.)

On 9 April, 2008, Petitioner filed a request to convert the application to a provisional application and OPAP granted that request on 14 April, 2008

On 14 April, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items indicating therein, *inter alia*, that drawing FIGS 1 and 2 described in the application appeared to be missing from the

application and that the application had been accorded a filing date, but without those drawing figures.

OPAP indicated that Petitioner might, *inter alia*:

- contend via petition that the drawing FIGS. 1 and 2 described in the specification were present upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the drawing figures; or

- submit the a copy of the drawing figures and accept the date of that submission as the filing date; or

- accept the application as deposited.

OPAP set a two- (2-) month period for reply.

On 17 April, 2008, Petitioner submitted the instant petition, averred that a drawing FIGS 1 and 2 described in the application had been submitted on deposit, indicating that the figures were set forth within the specification (and not separate and distinct as set forth at 37 C.F.R. §1.81 and §1.84), and provided a copy of the specification as deposited on 19 February, 2008. A review by the Office of the items deposited of record on 19 February, 2008, indicates the presence within the 33 pages of the Specification/Description of:

- a drawing identified as FIG. 1 at the bottom of page 14 of the specification; and

- a drawing identified as FIG. 2 at the upper half of page 18 of the specification.

This is consistent with Petitioner's averment at page 1 of the instant petition, and the EFS acknowledgement receipt available online indicates receipt by the Office on 19 February of 33 pages of Specification (Description), along with 3 pages of claims and 1 page of abstract.

ANALYSIS

A search of the official file reveals that:

- on 19 February, 2008, Petitioner deposited the instant application;

- the Office record reflects a determination on 14 April, 2008, that on deposit the drawing FIGS. 1 and 2 as described in the specification appeared to have been omitted; and

- on 17 April, 2008, Petitioner filed the instant petition and directed the attention of the Office to the body of the Specification at pages 14 and 18 thereof, as the location of the drawing FIGS. 1 and 2, respectively (and not separate and distinct as set forth at 37 C.F.R. §1.81 and §1.84).

Because the EFS acknowledgement receipt reflects the presence on deposit on 19 February, 2008, of the 33 pages of Specification, review of which by the Office reveals the presence of a drawing identified as FIG. 1 at the bottom of page 14 of the specification; and a drawing identified as FIG. 2 at the upper half of page 18 of the specification, it is concluded that the application, including 34 pages of specification (description, claims) and one page of abstract)—therein including a drawing identified as FIG. 1 at the bottom of page 14 of the specification; and a drawing identified as FIG. 2 at the upper half of page 18 of the specification, was deposited with the Office on 19 February, 2008, and subsequently were unobserved/misplaced in the Office.

Accordingly, the application, including 37 pages of specification (description and claims pages 1 – 36, and abstract (an unnumbered page))—including drawing FIGS. 1 and 2, is entitled to a filing date of 19 February, 2008.

The Notice mailed on 14 April, 2008, was sent in error to the extent that it reflected the omission of drawing FIGS. 1 and 2 is hereby **vacated** to the extent that it stated that the application was accorded a filing date without those drawing figures.

CONCLUSION

The petition is **granted**; the petition fee waived and is being refunded *via* Deposit Accout 19-4972—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 19 February, 2008, for the entire application including 37 pages of specification (description, claims and abstract) including therein pages 1 – 36 (containing therein drawing FIGS 1 and 2) and one unnumbered page of abstract using pages 1 – 36 of the specification (description, claims) and one unnumbered page of abstract deposited on 19 February, 2008; and**

- **with direction to OPAP to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 19 February, 2008, and reflecting therein that 36 pages of specification (description and claims)—therein**

containing drawing FIGS. 1 and 2—and one unnumbered page of abstract were present on filing.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

[1] The regulations at 37 C.F.R. §1.2 provide:1

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/744,197	05/03/2007	Camelia Rusu	LAM1P245/P1623

CONFIRMATION NO. 8341

58766
Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

CONVERSION REQUEST

Date Mailed: 04/15/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/12/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,147.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/744,197	05/03/2007	Camelia Rusu	LAM1P245/P1623	8341

22434 7590 03/17/2008

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

EXAMINER	
NORTON, NADINE GEORGIANNA	
ART UNIT	**PAPER NUMBER**
1792	

MAIL DATE	DELIVERY MODE
03/17/2008	PAPER

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

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

Copied from 11744197 on 04/15/2008

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CST

3-17-08

In re application of
Camelia Rusu et al
Serial No. 11/744,197
Filed: May 3, 2007
For: ETCH PROFILE CONTROL WITH HARDMASK OPEN

DECISION ON PETITION

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed March 12, 2008.

A review of the application record indicates that all of the requirements for converting the above-identified application to a provisional application under 37 CFR 1.53(c)(2) have been met.

The petition is **GRANTED.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for conversion to a provisional application.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 11744197 on 04/15/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/621,094	01/08/2007	Stephen Kline Gilbert	60426-901 PUS1

CONFIRMATION NO. 1553

28524
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

CONVERSION REQUEST

OC000000029404040

Date Mailed: 04/15/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/07/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,148.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/742,053	04/30/2007	William Bliss	BP5399

CONFIRMATION NO. 4168

51472
GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

CONVERSION REQUEST

Date Mailed: 04/15/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/22/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,149.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/982,363	10/31/2007	Parag Gokhale	606928036US1

CONFIRMATION NO. 9701

CONVERSION REQUEST

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

OC000000029414655

Date Mailed: 04/15/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/20/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,150.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/900,586	09/12/2007	Zheng Xin Dong	IPN-135.3 US

CONFIRMATION NO. 3134

CONVERSION REQUEST

Leon R. Yankwich, Esq.
Yankwich & Associates, P.C.
201 Broadway
Cambridge, MA 02139

OC000000029429123

Date Mailed: 04/16/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/06/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,151.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/871,964	10/12/2007	Nishi Kant	AZNE-25P

CONFIRMATION NO. 7917

29106
GROOVER & Associates
BOX 802889
DALLAS, TX 75380-2889

CONVERSION REQUEST

OC000000029429638

Date Mailed: 04/16/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/07/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,152.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/820,461	06/18/2007	George W. Ousler III	36130-504 CIP2

CONFIRMATION NO. 3525

CONVERSION REQUEST

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000029429929

Date Mailed: 04/16/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/02/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,153.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/780,699	07/20/2007	Thomas D. EVANS	24R03.1-010

CONFIRMATION NO. 4515

CONVERSION REQUEST

23506
GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

OC000000029515805

Date Mailed: 04/22/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **02/11/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,154.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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2/15/08

GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

In re Application of:
Evans, Thomas D. et al.
Serial No.: 11/780,699
Filed: May 19, 2006
Attorney Docket: 24R03.1-010
Title: DEVICES FOR APPLYING REMOVABLE CONDUCTIVE GELS ON ELECTRODES AND ELECTRODES PRODUCED THEREOF

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53 (C)(2).

The petition filed on Feb. 11, 2008 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 50-1513 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Any inquiry regarding this decision should be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Frederick R. Schmidt, Director
Technology Center 3700

Copied from 11780699 on 04/22/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/825,474	07/06/2007	Frank M. Phillips	35745.701.201

CONFIRMATION NO. 6512

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

CONVERSION REQUEST

OC000000029516283

Date Mailed: 04/22/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **02/04/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,155.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of:
Phillips, Frank M. et al
Serial No.: 11/825,474
Filed: Jul. 26, 2007
Attorney Docket: 35745.701.201
Title: CONSTRAINED DELIVERY SYSTEM

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53 (C)(2).

The petition filed on Feb. 4, 2008 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 23-2415 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-3468.

Frederick R. Schmidt, Director
Technology Center 3700

Copied from 11825474 on 04/22/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/832,580	08/01/2007	Gregory N. Beatch	480102.416C1

CONFIRMATION NO. 6324

CONVERSION REQUEST

500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

OC00000002951677 1

Date Mailed: 04/22/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/16/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,156.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/832,580	08/01/2007	Gregory N. Beatch	480102.416C1	6324

500 7590 04/18/2008

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

EXAMINER	
ANDERSON, REBECCA L	
ART UNIT	**PAPER NUMBER**
1626	

MAIL DATE	DELIVERY MODE
04/18/2008	PAPER

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

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

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APR 1 8 2008

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Application of	:
Beatch et al.	:
Serial No.: 11/832,580	: CONVERSION TO PROVISIONAL
Filed: August 1, 2007	:
Attorney Docket No.: 480102.416C1	:

This is in response to applicants' request, filed April 16, 2008, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

Copied from 11832580 on 04/22/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/862,821	09/27/2007	Joseph M. Cesternino	2165.004A

CONFIRMATION NO. 1673

23405
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

CONVERSION REQUEST

OC000000029517066

Date Mailed: 04/22/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **02/15/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,157.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of:
Cesternino, Joseph M.
Serial No.: 11/862,821
Filed: Sep. 27, 2007
Attorney Docket: 2165.004A
Title: AUTOMATIC RESET TARGET DEVICE AND METHOD

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53 (C)(2).

The petition filed on Feb. 15, 2008 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged in accordance with 37 CFR 1.17(q).

The petition is **GRANTED.**

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing as a PROVISIONAL application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(b)(2), including the assignment of a new provisional application number.

The new provisional application number will be communicated to the applicant by OIPE in due course.

Henry C. Yuen
Special Programs Examiner
Technology Center 3700

Copied from 11862821 on 04/22/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/944,738	11/26/2007	Priti Balchandani	STFUP199/S07-079

CONFIRMATION NO. 6040

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

CONVERSION REQUEST

OC000000029517283

Date Mailed: 04/22/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,158.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of:
Balchandani, Priti et al.
Serial No.: 11/944,738
Filed: Nov. 26, 2007
Attorney Docket: STFUP199/S07-079
Title: SLICE-SELECTIVE TUNABLE-FLIP ADIABATIC LOW PEAK POWER EXCITATION

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53 (C)(2).

The petition filed on Jan. 31, 2008 requests conversion to a provisional application under 37 CFR 1.53(C)(2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q) and 1.16(k). It was also filed within the time frames as set forth in 37 CFR 1.53 (C)(2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 501778 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

Copied from 11944738 on 04/22/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/925,617	10/26/2007	Michelle M. Tabb	054769-9930

CONFIRMATION NO. 3314

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

CONVERSION REQUEST

OC000000029566998

Date Mailed: 04/24/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/22/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/066,159.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

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BLODGETT BLODGETT
43 HIGHLAND STREET
WORCESTER, MA 01609-2797

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DEC 3 1 2008

In re Application of :
Stewart Smith :
Application No. 61/066,248 : DECISION GRANTING
Filed: February 19, 2008 : PETITION
Attorney Docket No. 006-689-000 :

This is a decision on the petition filed November 17, 2008, requesting that the above-identified application be accorded a filing date of February 19, 2008, rather than the presently accorded date of February 20, 2008. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on February 19, 2008 pursuant to 37 CFR 1.10. Petitioner has provided a copy of the results from the USPS Express Mail Track and Confirm database, which shows that the package at issue was accepted at the Shrewsbury, MA, USPS at 7:32 pm on February 19, 2008. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is February 19, 2008. The same Express Mail label number which is ER949884964US also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on February 19, 2008, as shown by the results from the USPS Express Mail Track and Confirm database. Accordingly, this application is entitled to a filing date of February 19, 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 February 19, 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) 272-4000.

David Bucci
Petitions Examiner
Office of Petitions

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INGRID MCTAGGART
3021 SE 56TH AVE
PORTLAND OR 97206

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of
Keefer, et al.
Application No. 61/066,446
Filed/Deposited: 19 February, 2008
Attorney Docket No. TEM640

: DECISION
:
:

This is a decision on the petition filed on 28 March, 2008, seeking a filing date of 19 February, 2008, for (two (2) pages of drawings containing) drawing FIGS. 8 - 14 described in the specification, and properly considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

The instant application was deposited on 19 February, 2008.

On 6 March, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE) mailed a Notice to File Omitted Items—to wit: drawing FIGS. 8 - 14 described in the specification—thus, the application had been accorded a filing date without those drawing figures. .

OPAP indicated that Petitioner might:

- contend via petition that the drawing figures were present upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the figures; or
- submit the figures and accept the date of that submission as the filing date; or
- accept the application as deposited.

OPAP set a two- (2-) month period for reply.

On 28 March, 2008, Petitioner submitted the instant petition, including therewith, *inter alia*, what was averred to be a true copy of the specification, including a true copy thereof drawing FIGS. 8 - 14 described in the specification, and a true copy of Petitioner's date-stamped ("021908") receipt card.

ANALYSIS

A search of the official file reveals that:

- on 19 February, 2008, Petitioner deposited the instant application;
- the Office record appears, as discussed hereinabove, to have reflected that the drawing FIGS. 8 - 14 described in the specification were missing upon deposit—specifically, the record reflects only two sheets of drawings (FIGS 1 – 7) present on deposit;
- the date-stamped receipt card evidences—in pertinent part—the following:

***

Pat. App. w/3 pages spec,; 1 pages claims; 1 pages abstract; 4 pages 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 5 pages of specification (description, claims and abstract), and four (4) pages of drawings, including two pages containing FIGS 8 – 14 described in the specification, was deposited with the Office on 19 February, 2008, and two sheets of drawings containing FIGS 8 – 14 described in the specification subsequently were misplaced in the Office.

Accordingly, the application, including 5 pages of specification (description, claims and abstract), and four (4) pages of drawings, including two pages containing FIGS 8 – 14 described in the specification, is entitled to a filing date of 19 February, 2008.

The Notice mailed on 6 March, 2008, was sent in error to the extent that it reflected the omission of (two pages of) drawings containing FIGS 8 – 14 described in the specification, and is hereby **vacated** to the extent that it stated that the application was filed without (two pages of drawings containing) FIGS 8 – 14 described in the specification.

CONCLUSION

The petition is **granted**; the petition fee waived and is being refunded *via* Treasury check—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 19 February, 2008, for the entire application including 5 pages of specification (description, claims and abstract) and four (4) pages of drawings including two (2) pages of drawings containing FIGS 8 – 14 described in the specification using:

- **pages 1 – 5 of the specification (description, claims abstract) and two pages of drawings containing FIGS 1 – 7 described in the specification deposited on 19 February, 2008; and**

- **two pages of drawings containing FIGS 8 – 14 described in the specification deposited on 28 March, 2008; and further,**

with direction to OPAP to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 19 February, 2008, and reflecting therein that 5 pages of specification (description and claims) and four pages of drawings were present on filing.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

[1] The regulations at 37 C.F.R. §1.2 provide:1

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

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CELERA, AN APPLERA BUSINESS UNIT
1401 HARBOR BAY PARKWAY
ALAMEDA, CA 94502

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JUL 25 2008

In re Application of	:	
May Luke, et. al.	:	
Application No. 61/066,584	:	DECISION GRANTING
Filed: February 20, 2008	:	PETITION
Attorney Docket No. CD000022PRO	:	

This is a decision on the petition under 37 CFR 1.10(c) filed on March 28, 2008, requesting that the above-identified application be accorded a filing date of February 20, 2008, rather than the presently accorded date of February 21, 2008.

Petitioner alleges that the application was deposited in Express Mail Service February 20, 2008. In support, the petition is accompanied by a copy of Express Mail receipt No. EB 894289563 US, showing a barely legible "date in" of February 20, 2008. It is noted that the same Express Mail number is found on the original application papers located in the official file.

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. While the "date-in" is barely legible, it can be ascertained that the correct "date-in" is February 20, 2008. Accordingly, the evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on February 20, 2008.

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

This application file is being forwarded to the Office of Patent Application Processing for **correction of the filing date to February 20, 2008 and for issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3226. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Andrea Smith
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5973

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
SCHWOERER et al. :
Application No. 61/067,307 : DECISION ON PETITION
Filed: February 26, 2008 :
Attorney Docket No. 2648-006-02 :

This is a decision on the "PETITION UNDER 37 CFR 1.53(e) RESPONSE TO NOTICE OF OMITTED ITEMS (PROVISIONAL)," filed March 31, 2008.

On February 26, 2008, applicants filed the above-identified application. On March 20, 2008, the Office mailed a Notice of Omitted Item(s) in a Provisional Application, stating that the application had been accorded a filing date of February 26, 2008, and advising applicants that pages 12, 13, and 14 of the specification (description and claims) appeared to have been omitted.

In response, on March 20, 2008, applicants submitted the present petition, a copy of the specification (including pages 12, 13, and 14), and the petition fee. Additionally, applicants submitted, inter alia, a copy of the returned, date-stamped postcard receipt acknowledging receipt of "Provisional Application for Patent Cover Sheet; provision application (26 pages); drawing (6 sheets); Fee Transmittal; $105 Check No. 29310 for filing fee" in the USPTO on February 26, 2008. The Office notes that the application number appearing in the heading of the petition is incorrectly identified as 61/067,037 instead of the correct application number, 61/067,307. The Office has moved the petition, as well as the relevant fees and papers, from Application No. 61/067,037 and placed them in Application No. 61/067,307

Upon review of the record, pages 12, 13, and 14 of the specification (description and claims), deposited on February 26, 2008, have not

been located among the application papers. However, the evidence is convincing that the application papers deposited on February 26, 2008, included pages 12, 13, and 14 of the specification, which were subsequently misplaced in the USPTO. Therefore, the application, including pages 12, 13, and 14 of the specification was complete on filing and will be granted a filing date of February 26, 2008.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby withdrawn. Accordingly, no petition fee is necessary. The $400.00 petition fee will be refunded via treasury check in due course.

This matter is being referred to the Office of Patent Application Processing **to accord the above-identified application a filing date of February 26, 2008,** using pages 1-11, 15-26 of the specification filed on that date, and pages 12, 13, and 14 of the specification submitted with the petition on March 31, 2008, as part of the original disclosure.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
CHRYSLER CENTER
666 Thiard Avenue, 24th Floor
New York NY 10017

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MAR 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Benny Pesach et al. :
Application No. 61/067,423 : DECISION ON PETITION
Filed: February 27, 2008 :
Attorney Docket No. 36238-513P01US :

This is a decision on the petition under 37 CFR 1.59(b), filed October 23, 2009, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that documents filed on September 24, 2009, 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.

David Bucci
Petitions Examiner
Office of Petitions

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CHRYSLER CENTER
666 Thiard Avenue, 24th Floor
New York NY 10017

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MAR 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Gabriel Bitton et al. :
Application No. 61/067,424 : DECISION ON PETITION
Filed: February 27, 2008 :
Attorney Docket No. 36238-512P01US :

This is a decision on the petition under 37 CFR 1.59(b), filed October 23, 2009, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that documents filed on September 24, 2009, 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.

David Bucel
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Vaithianathan Venkatasubramanian, et al.	:	
Application No. 61/067,996	:	DECISION GRANTING
Filed: March 4, 2008	:	PETITION
Attorney Docket No. 271588022US	:	

This is a decision on the petition filed March 3, 2009, requesting that the above-identified application be accorded a filing date of March 4, 2008, rather than the presently accorded date of March 3, 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 March 4, 2008 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV 813994470US bears a handwritten "date-in" of March 3, 2008, petitioner has included a sales receipt from the USPS indicating that the Express Mail mailing label was not purchased until March 4, 2008. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is March 4, 2008. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from

the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner's evidence shows that the package in question was accepted on March 4, 2008, not March 3, 2008. Since the USPS sales receipt corroborates a "date-in" of March 4, 2008, the application is entitled to the requested filing date.

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 March 4, 2008 and for issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to April M. Wise at (571) 272-1642. Telephone inquiries related to the Office of Patent Application Processing should be directed to their hotline at (571) 272-4100.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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222 EAST 41ST STREET
NEW YORK NY 10017

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. Mckie et al	:	
Application No. 61/068,041	:	DECISION GRANTING
Filed: March 3, 2008	:	PETITION
Attorney Docket No. 61/068,041	:	

This is a decision on the petition, filed April 7, 2008, requesting that the above-identified application be accorded a filing date of March 3, 2008. 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 March 3, 2008. In support, the petition is accompanied by a copy of Express Mail receipt No.EV811561635US (the same Express Mail number found on the original application papers located in the official file).

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 March 3, 2008.

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

It is noted that a corrected filing receipt was mailed on August 14, 2008.

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

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Karen Creasy
Petitions Examiner
Office of Petitions

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Jerry L. Mahurin
The Gates Corporation
IP Law Dept. 10-A3
1551 Wewatta Street
Denver CO 80202

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JUL 07 2008

OFFICE OF PETITIONS

In re Patent of	:	
Gilbreath et al.	:	
Application No. 61/068585	:	DECISION
Filing or 371(c) Date: 03/07/2008	:	ON PETITION
Attorney Docket Number:	:	
C07-015P	:	

This is a decision on the "Petition under 37 CFR 1.53(e)(2)," filed May 6, 2008, requesting the application be accorded a filing date of March 7, 2008, including pages 1-4 of the specification. The petition is properly treated under 37 CFR 1.182.

The petition is **granted**.

Background

The application was filed on March 7, 2008. On March 25, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Omitted Item(s) in a Provisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, pages 1-4 of the specification appeared to have been omitted from the application.

The present petition

Applicant files the present petition and avers that pages 1-4 of the specification were included among 14 pages of the application filed on March 7, 2008. In support of this assertion, Applicant provides a copy of a return receipt postcard acknowledging receipt of 14 pages of specification by this Office on March 7, 2008.

Applicable Law, Rules and MPEP

"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.

The copy of pages 1-4 of the specification, filed with the present petition, will be used for examination purposes.

The petition fee has been refunded to Petitioner's deposit account as authorized in the present petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 7, 2008, and an indication that pages 1-4 of the specification were included with the application papers filed on March 7, 2008, using the copy of pages 1-4 of the specification filed with the present petition.

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

Derek L. Woods
Attorney
Office of Petitions

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/068,698	03/07/2008	Les Okrasa	

CONFIRMATION NO. 1080

Cosmic Descent, LLC
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **03/07/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sharon R. Kantor
The Firenza Group Ltd.
65 Panorama Court
Danville CA 94506-6154

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Brodbeck, et al. : DECISION ON PETITION
Application No. 61/068,727 :
Filed: March 10, 2008 :
Atty. Dkt. No.: 8277.05111-P :

This is a decision on the petition under 37 CFR 1.137(a), filed September 1, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Further consideration under 37 CFR 1.137(a) is not deemed appropriate at the present time. However, should petitioner desire reconsideration of this decision, such request must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

Petitioner seeks to revive the instant application. However, revival is only deemed appropriate after the maximum period of time for reply to an Office communication has expired.

A Notice to File Missing Parts of Provisional Application (Notice) was mailed May 1, 2008. The Notice set a two month shortened statutory period of time for reply and indicated that extensions of time were available under 37 CFR 1.136(a).

Accordingly, a reply to the Notice was due on or before July 1, 2008. However, the period of time for reply is extendible up to five months, or on or before December 1, 2008. Thus, the instant petition is prematurely filed and applicant is advised that the appropriate action is to **promptly** submit the appropriate extension of time fee and any outstanding reply to the Notice, directed to the Office of Patent Application Processing, to avoid abandonment of the instant application.

This application is being returned to the Office of Patent Application Processing to await further action by applicant.

Petitioner is again reminded that failure to timely submit a petition of time (and appropriate fee) and any outstanding reply to the Notice will result in abandonment of the application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Law Office of Collen A. Beard, LLC
P.O. Box 1064
Decatur, GA 30031-1064

In re Application of	:	
Omar Lattouf	:	
Application No. 61/069,103	:	DECISION ON PETITION
Filed: March 12, 2008	:	TO WITHDRAW
Attorney Docket No. TCT 1200	:	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 August 19, 2008.

The request is **APPROVED**.

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

The request was signed by Collen A. Beard, on behalf of all attorneys/agents associated with customer number 44260. All attorneys/agents associated with customer number 44260 have been withdrawn.

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

The correspondence address has been changed. The address changed 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: TransCardiac Therapeutics, LLC
3355 Lenox Road, NE
Suite 415
Atlanta, GA 30326

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/069,103	03/12/2008	Omar Lattouf	TCT 1200

CONFIRMATION NO. 3176

POWER OF ATTORNEY NOTICE

44260
LAW OFFICE OF COLLEN A. BEARD, LLC
P. O. BOX 1064
DECATUR, GA 30031-1064

OC000000032335452

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/19/2008.

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

/kainabinet/

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

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BOWLES RICE MCDAVID GRAFF & LOVE LLP
POST OFFICE BOX 1386
CHARLESTON, WV 25325-1386

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
Pier Paolo Claudio, et al. :
Application No. 61/069,886 : DECISION ON PETITION
Filed: March 18, 2008 : TO WITHDRAW
Attorney Docket No. BR-101 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 24, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that David Levy 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. Further the request cannot be processed because there is no oath or declaration or application data sheet that lists the applicant's mailing address.

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 undersigned at 571-272-1642.

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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MAR 05 2009

OFFICE OF PETITIONS

In re Application of :
David Savage et al. :
Application No. 61/070,004 : DECISION DISMISSING PETITION
Filed: March 18, 2008 :
Attorney Docket No: 29297-048P01US :

This decision is in response to the petition filed May 19, 2008, under 37 CFR 1.53 in response to the Notice of Omitted Items mailed May 9, 2008. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed March 18, 2008, however, on May 9, 2008, the Office of Data Management mailed a "Notice" stating that the application had been accorded a filing date of March 18, 2008, but that Figure 13B described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that no Figures were missing on March 18, 2008 but instead, the brief description of Figure 13 in the specification contains a clerical error ("A-B"). Applicants submit that the inclusion of any reference to panels A and B in the description of Figure 13 is an error made without deceptive intent.

In view thereof, the "Notice" mailed on May 9, 2008 was correct in stating that Figure 13B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the $400 petition fee has been applied and will not be refunded.

Petitioner, however, is reminded that no amendment/corrections, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to a provisional application after the filing date of the provisional application. See 37 CFR 1.53(c); 37 CFR 1.121(j).

As well, the option to take the later filing date, *i.e.*, the date of submission of the

omitted page(s) or drawing(s), is not available.[1] As such, if petitioners desire to correct the brief description of the drawings in the Specification, petitioners should simply file a new completed provisional application.

The application will be processed and examined using the application papers filed on March 18, 2008.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of March 18, 2008, using the application papers filed on that date.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 601.01(d). In view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of submission in provisional applications. The applicant should simply file a new completed provisional application. Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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V. JEFFREY MULLICAN
3310 WEST WHITENDALE STREET
VISALIA, CA 93277

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Vernon Jeffrey Mullican
Application No. 61/070,375
Filed: March 20, 2008
Attorney Docket No. N/A

DECISION ON PETITION

This is a decision on the petition filed January 7, 2009, to revive the above identified application.

The application became abandoned for failure to file a reply to the Notice to File Missing Parts of Provisional Application (Notice) mailed April 2, 2008. A Notice of Abandonment was mailed on December 8, 2008.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Scott W. Kelley appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Kelley desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **DISMISSED**.

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

The instant petition lacks items (1) above. In this regard, the Office acknowledges receipt of $810 for the petition fee, $20 for payment of the surcharge and $10 to complete the $110 basic filing fee. However, the Notice mailed April 2, 2008 required petitioner to submit a $25 surcharge. Therefore, petitioner must submit the $5 fee deficiency before revival can occur.

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) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Scott W. Kelley
6320 Canoga Avenue, Ste. 1650
Woodland Hills, CA 91367

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KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Vernon Jeffrey Mullican
Application No. 61/070,375
Filed: March 20, 2008
Attorney Docket No. N/A

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 23, 2009, to revive the above-identified application.

In response to the petition decision mailed on March 6, 2009, petitioner submits the $25 surcharge on March 23, 2009. Therefore, since all the requirements of a grantable petition under 37 CFR 1.137(b) has been met, the renewed petition is **granted**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/070,472	03/21/2008	Les Okrasa	

CONFIRMATION NO. 8096

Cosmic Descent, LLC
29 Belmund Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **03/21/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Cusak et al.	:	ON PETITION
Application No. 61/070792	:	
Filing or 371(c) Date: 03/25/2008	:	
Title of Invention:	:	
SOLUBLE RNA CAP BINDING	:	
POCKET FRAGMENTS	:	
AND THEIR USE	:	

This is a decision on the "Petition Under 37 C.F.R. §1.181 and/or 1.182, filed May 5, 2008, requesting the above-identified application be accorded a filing date of March 25, 2008, including Figure pages 53 – 76 described in the specification. The petition is properly treated under 37 CFR 1.182.

The petition is dismissed.

Background

Application papers were filed in the above-identified application on March 25, 2008. On May 7, 2008, the Office of Patent Application Processing mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had been accorded a filing date; however, Figure pages 53-76 described in the of the specification, appear to have been omitted from the application.

Applicant responds with the present petition and states that Applicants received a return-receipt postcard indicating that 24 pages of drawings were not included in the application. In support of this assertion, Applicant includes the affidavits of Jay M. Sanders, Sherry Loke, Keena Stone, Mary Calderwood and Kaleb Erwin. In the Affidavit of Ms. Sherry Loke, Ms. Loke states that she printed, reviewed and placed the figures in the application package that was sealed in the Express Mail package on March 25, 2008. In the Affidavit of Ms. Kenna Stone, Ms. Stone states that she reviewed and counted each and every page of Figure 18 to ensure that all of the

consecutively numbered pages of this Figure were present and placed into the application package that was sealed in the Express Mail package on March 25, 2008.

Applicant also provides that an identical package was prepared and filed Express Mail on April 8, 2008. The "identical re-creation of the subject application" was identical except for the manilla envelope. Applicant asserts that the weight of the package containing the subject application, as indicated on the Express Mail receipt, was six pounds and six ounces. Applicant provides that the weight of the Application filed April 8, 2009 was six pounds four ounces. The application filed April 8, 2008, included Figure 18 (as well as all other contents). Applicant notes that the April 8, 2008 application was lighter than the original package – the present application.

Applicant also re-created a third package, first with the 24 pages, and weighed the package at the U.S. Post Office, and then without the 24 pages. The package weighed six pounds six ounces with the 24 pages, and six pounds two point one ounces without the 24 pages.

Applicant also weighed the 24 pages identical to Figure 18, which weighed four ounces. Applicant concludes that the consistency of the weights of the two packages evidences that 24 pages of Figure 18 were included with the application as-fild on March 25, 2008.

A review of the application file

A review of the application file reveals that this Office did not receive Figure pages 53-76 described in the specification.

The Manual of Patent Examining procedure ("MPEP") provides as follows:

> 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 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.

MPEP 503

Analysis

In this instance, the person receiving the item(s) in the USPTO checked the listing on the postcard against the item(s) filed to be sure they were properly identified and that all the items listed on the postcard were submitted to the USPTO. 24 pages of drawings listed on the postcard were not submitted to the USPTO, and the postcard was stamped and annotated stating that 24 opages of drawings were not received by this Office on March 25, 2008.

Regarding the affidavits, Applicant is advised that the USPTO file is the official record of the papers actually received or filed. The file does not contain a copy of Figure pages 53-76 described in the specification. Declarant's recollection of events that had occurred several weeks prior to the filing of the Declaration is not more persuasive than Office records.

Similarly, Applicant's weighing similar application packages is not more persuasive than Office records. The application file, as confirmed by the annotated return-receipt postcard, did not contain Figure pages 53-76 as-filed on March 25, 2008.

Conclusion

Applicant has failed to demonstrate that Figure pages 53-76 described in the of the specification, were present on filing. Applicant's recollection of events that occurred several weeks prior to the filing of the petition is not more persuasive than the application file.

The petition under 37 C.F.R. §1.181 and/or 1.182 to establish receipt in the Office of Figure pages 53-76 described in the of the specification, is dismissed.

Applicant is advised that the fee for a petition under 37 CFR 1.182 increased effective December 8, 2004 to $400.00. Applicant's deposit account has been charged the balance of the petition fee, $270.00, as authorized in the petition.

The application will be returned to the Office of Patent Application Processing with a filing date of March 25, using the application papers filed on that date.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLEN LEON SIMMONS
115 LYNBROOK AVE
POINT LOOKOUT NY 11569

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FEB 2 6 2009

OFFICE OF PETITIONS

In re Application of
Glen Leon Simmons
Application No. 61/071,163
Filed: April 16, 2008
Attorney Docket No.

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed January 27, 2009, and in duplicate on January 30, 2009.

The petition is **DISMISSED**.

The above-identified application became abandoned on June 26, 2008, for failure to file timely and proper response to the Notice to File Missing Parts of Non-Provisional Application mailed April 25, 2008. The notice set a shortened period for reply of two-months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was filed on April 16, 2008. On April 20, 2008, the USPTO sent a letter to petitioner informing petitioner that the check sent to the Office on April 16, 2008, was returned for insufficient funds. On June 24, 2008, petitioner sent another check for the filing fee and surcharge. On July 8, 2008, a Notice of Incomplete Reply was mailed indicating that a $50.00 fee was due for the returned check filed April 16, 2008. The period for reply remained as set forth in the Notice to File Missing Parts of Non-Provisional Application. No response was received and the application became abandoned on June 26, 2008, for failure to pay the $50.00 returned check fee. A Notice of Abandonment was mailed on December 31, 2008.

A petition to withdraw the holding of abandonment is only proper when there is some question as to whether the application is actually abandoned. It is clear from the instant petition that petitioner was aware that a check filed April 16, 2008, was returned for insufficient funds and that petitioner was aware a $50.00 returned check fee was assessed accordingly. Petitioner does not argue that the $50.00 returned check surcharge was paid and the USPTO record for the application does not demonstrate that it was paid. There is no dispute as to whether the application was properly abandoned. The petition to withdraw the holding of abandonment is dismissed, accordingly.

Where applicant has allowed the application to go abandoned due to an inadvertent error, such as is the case here, the appropriate petition is filed under 37 CFR 1.137(b) for unintentional delay in responding to an Office action. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by a proper response to the final Office action, the required petition fee ($1620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The petition must be accompanied by the $50.00 surcharge for the returned check.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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

GLEN LEON SIMMONS
115 LYNBROOK AVE
POINT LOOKOUT NY 11569

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Glen Leon Simmons :
Application No. 61/071,163 : ON PETITION
Filed: April 16, 2008 :
Attorney Docket No.

This is a decision on the renewed petition to withdraw the holding of abandonment filed March 9, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned on June 26, 2008, for failure to file timely and proper response to the Notice to File Missing Parts of Non-Provisional Application mailed April 25, 2008. The notice set a shortened period for reply of two-months from its mailing date. The notice required payment of the filing fee and surcharge in the amount of $210.00 Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The fees were paid on June 24, 2008. On April 30, 2008, the USPTO sent a letter to petitioner informing petitioner that a check sent to the Office on April 13, 2008, was returned for insufficient funds. On July 8, 2008, a Notice of Incomplete Reply was mailed indicating that a $50.00 fee was due for the returned check filed April 13, 2008. The period for reply remained as set forth in the Notice to File Missing Parts of Non-Provisional Application. No response was received and the application became abandoned on June 26, 2008, for failure to pay the $50.00 returned check fee. A Notice of Abandonment was mailed on December 31, 2008.

Further review of the application file history reveals that the notice mailed April 30, 2008, was incorrectly attributed to the subject application. In fact, petitioner has mailed no check in the amount of $735.00 in this application, but only paid the amount of $260.00 as was required. The holding of abandonment was improperly imposed because the notice of April 30, 2008, was improperly mailed in this application and there should have been no requirement for payment of a $50.00 surcharge for a returned check; the notice should have been mailed in another application altogether. The petition is granted, accordingly.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

McCarthy Tetrault LLP
Box 48
Suite #4700 Toronto Dominion
Bank Tower
TORONTO ON
M5K 1E6
CANADA

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DEC 22 2008

In re Application of	:	
Finlay et al.	:	DECISION ON
Application No. 61/071,659	:	PETITION
Filed: May 9, 2008	:	
Attorney Docket No. 190476-389632	:	
(T01394-001	:	

This is in response to the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION," filed July 21, 2008. Petitioner requests that the Office include in the above-identified provisional application a replacement set of drawings, Figures 1 to 15 which includes Figures 9 to 14 as described in the specification.

Application papers in the above-identified provisional application were filed on May 9, 2008. However, on May 21, 2008, the Office of Patent Application Processing mailed a "Notice of Omitted Item(s) In A Provisional Application," stating that the application had been accorded a filing date; however, Figures 9 - 14 described in the specification appeared to be omitted from the application. This Notice set a two-month period for reply.

In response, applicant timely filed the instant petition. Applicants do not assert that the application as filed included figures 9 - 14. Rather, applicants supply the figures and state that they do not add new subject matter. In effect, applicants request that the application be amended to include the drawing figures.

The relief requested by applicants is not appropriate.

37 CFR 1.53(c) provides that:

> The filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.

Moreover, in a provisional application, the mailing of a "Notice of Omitted Item(s)" will permit the applicant to:

> (A) promptly establish prior receipt in the USPTO of the page(s) at issue. An applicant asserting that the page(s) was in fact received by the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f), along with evidence of such deposit (37 CFR 1.181(f)). The petition fee will be refunded if it is determined that the page(s) was in fact received by the USPTO with the application papers deposited on filing. See MPEP 601.01(d).

This section further provides that:

> In view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application.

In this instance, petitioner does not assert and does not submit any evidence to support a conclusion that the missing figures were received by the Office with the application papers. Thus, the application is not entitled to a filing date with figures 9 - 14 present in the application. Petitioner, in effect, acknowledges that the drawing figures were omitted and requests that the provisional application be amended to add the drawing

figures. Pursuant to 37 CFR 1.53(c), this provisional application cannot be amended to add figures 9 - 14.

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

Any request for reconsideration must be filed within **TWO MONTHS** of the mailing date of this decision. This period is governed by 37 CFR 1.181(f) and is not extendable under 37 CFR 1.136(a).

The drawings filed July 21, 2008 will not be entered.

The petition fee will not be refunded as the petition was necessitated by the condition of the application on filing.

This provisional application will maintain a filing date of May 9, 2008, using the application papers deposited on that date.

The provisional application is being forwarded to the Office of Patent Application Processing for completion of processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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YALE UNIVERSITY OFFICE OF COOPERATIVE RESEARCH
433 TEMPLE STREET
NEW HAVEN CT 06511

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Bucala, et al.	:	
Application No. 61/072,731	:	DECISION ON PETITION
Filed: April 2, 2008	:	
Attorney Docket No. 4943	:	

This is a decision on the paper titled "Reply to Notice of Incomplete Provisional Application", filed May 15, 2008, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of April 2, 2008

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on April 2, 2008. However, on May 13, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner states that the application should be accorded the May 15, 2008, filing date without the drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the name of all the inventors.

The instant provisional application contains disclosure for which a drawing is usually not considered essential for a filing date 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 view of the above, the "Notice of Incomplete Provisional Application" mailed May 13, 2008, was mailed in error and is hereby **withdrawn**.

The Office should have instead mailed a Notice of Omitted Items in a Provisional Application.

As the instant petition was due to USPTO error, the petition fee of $400 for the petition under 37 CFR 1.53 has been refunded to Deposit Account No. 25-0110.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of April 2, 2008, for indication on the file wrapper label to show that "0" sheets of drawings were present on filing, and for mailing of a "Notice of Omitted Items in a Provisional Application".

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/073,026	06/16/2008	Les Okrasa	

CONFIRMATION NO. 3167

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/08/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

MATTINGLY & MALUR PC
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of :
Jonathan Betts-Lacroix :
Application No. 61/073,029 : ON PETITION
Filed: June 17, 2008 :
Attorney Docket No. OQO-6462-PROV :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 14, 2009.

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

The holding of abandonment is **WITHDRAWN**.

The application was held abandoned due to failure to timely file replacement drawings in response to the Notice to File Missing Parts, mailed July 21, 2008. This Notice set an extendable period for reply of two (2) months to submit the statutory basic filing fee, and the surcharge for its late filing. No fee having been received, the application became abandoned on September 22, 2008. The Office mailed a Notice of Abandonment on March 30, 2009.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of his replies docketed for the due date of September 21, 2008. An entry for the instant application is absent, supporting the conclusion that the July 21, 2008 Notice to File Missing Parts was not received.

In view thereof, the petition is granted.

The application is being forwarded to the Office of Patent Application Processing for re-mailing of the July 21, 2008 Notice to File Missing Parts, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II).

[3] Id.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/073,354	06/17/2008	Les Okrasa	

CONFIRMATION NO. 4577

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/10/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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McLauchlan & Siegele
ATTN: Robert McLauchlan
POST OFFICE BOX 26780
AUSTIN TX 78755

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AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of
Little
Application No. 61/073,409
Filed: June 18, 2008
Attorney Docket No. PL P002USP
For: OPTICAL DETERMINATION AND REPORTING OF GAS PROPERTIES

ON PETITION

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

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application, mailed July 25, 2008, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 26, 2008. A Notice of Abandonment was mailed on April 2, 2009.

Applicant has submitted a proper reply to the July 25, 2008 Notice in the form of the $110.00 basic filing fee and a $25.00 surcharge for its late filing, a proper statement of the unintentional nature of the delay in responding to the July 25, 2008 Notice, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Petitioner is reminded that a provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application is hereby deemed revived until midnight on June 18, 2009, when it went abandoned as a matter of law.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of :
ATKINSON, Geoffrey et al. :
Application No. 61/073,590 : DECISION ON PETITION
Filed: June 18, 2008 : TO WITHDRAW
Attorney Docket No. **064741.000165** : FROM RECORD
:

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

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GEOFFREY ATKINSON**
330 HARVARD AVE
SALT LAKE CITY, UT 84111

cc: **CLAYTON, HOWARTH & CANNON, P.C.**
P.O. BOX 1909
SANDY, UT 84091

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United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

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SEP 17 2008

In re Application of :
Stefano Faccin et al. :
Application No. 61/073,603 : DECISION GRANTING PETITION
Filed: June 18, 2008 :
Attorney Docket No. **MP2650PR** :

This is a decision on the petition filed August 26, 2008, requesting that the above-identified provisional application be accorded a filing date of June 18, 2008. The petition is being treated under 37 CFR 1.53

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

The application was filed on June 18, 2008, without drawings. Accordingly, on June 26, 2008, the Office of Data Management mailed a "Notice of Incomplete Provisional Application" stating that the application had been deposited without drawings.

The present petition argues that drawings are not necessary for an understanding of the subject matter sought to be patented, and requests that the application be accorded a filing date of June 18, 2008.

Based on petitioners argument, this application will be accorded a filing date of June 18, 2008. Petitioner is advised, however, that this decision does not constitute a determination in accordance with 35 U.S.C. § 113 (first sentence). However, the "Notice" was correct in stating that the application appeared to have been incomplete. Thus, the petition fee in the amount of $400.00 has been charged to petitioner's deposit account.

The application will be processed for filing date purposes using the application papers present on June 18, 2008.

Petitioner is reminded that no amendment/corrections, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to a provisional application after the filing date of the provisional application. See 37 CFR 1.53(c); 37 CFR 1.121(j). As such, if petitioners desire to have

drawings included, petitioners should file a new completed provisional application.

This matter is being referred to the Office of Patent Application Processing for processing with a filing date of June 18, 2008, using only the application papers filed on that date, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR
SAN DIEGO CA 92121

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NOV 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Simic, et al.	:	
Application No. 61/073,731	:	DECISION ON PETITION
Filed: June 18, 2008	:	
Attorney Docket No. 080732P1	:	

This is a decision on the petition under 37 CFR 1.53, filed October 10, 2008, to accord the above-identified application a filing date of June 18, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on June 18, 2008. However, on August 11, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner states that drawings are not necessary for an understating of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the name of all the inventors.

The instant provisional application contains disclosure for which a drawing is usually not considered essential for a filing date 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 view of the above, the "Notice of Incomplete Provisional Application" mailed August 10, 2008, was mailed in error and is hereby **withdrawn**.

The Office should have instead mailed a Notice of Omitted Items in a Provisional Application.

As the instant petition was due to USPTO error, the $130 petition is being refunded to petitioner under separate cover.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of June 18, 2008, for indication that "0" sheets of drawings were present on filing, and for mailing of a "Notice of Omitted Items in a Provisional Application".

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ward and Smith, P.A.
1001 College Court
P.O. Box 867
New Bern, NC 28563-0867

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel Klein	:	
Application No. 61/074,023	:	DECISION ON PETITION
Filed: June 19, 2008	:	TO WITHDRAW
Attorney Docket No. 080660-00004	:	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 20, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that E. Eric Mills 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. Therefore, there is no authority to sign the request to withdraw on behalf of the attorneys of record.

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 Kimberly Inabinet at 571-272-4618.

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
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/075,332	06/24/2008	Les Okrasa	

CONFIRMATION NO. 3400

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/05/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/10/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GARY M. ESAYIAN
10017 FREMONT AVE.
MONTCLAIR CA 91763

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AUG 25 2009

OFFICE OF PETITIONS

In re Application of
Gary M. Esayian et al
Application No. 61/075,334
Filed: June 25, 2008
For: SYSTEM FOR INTERACTIVELY DETERMINING THE OPTIMAL GOLF BALL FOR A GOLFER

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an provisional cover sheet/surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Provisional Application mailed July 3, 2008, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 0 8 2009

OFFICE OF PETITIONS

CHRISTINE JOHNSON ESQ.
151 Trenton Rd.
Fairless Hills PA 19030

In re Application of	:	
Josh Koppel	:	
Application No. 61/076,674	:	DECISION ON PETITION
Filed: June 29, 2008	:	
Attorney Docket No. J179U002US01	:	

This is a decision on the petition under 37 CFR 1.59(b), June 1, 2009, to expunge information from the above identified application.

The petition is **dismissed**.

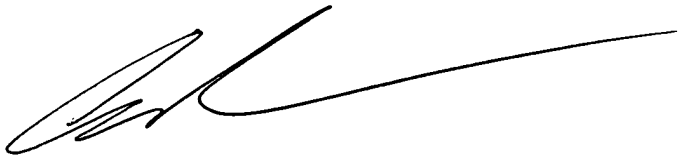
Petitioner requests that a document identified as pages 18-40, be expunged from the record. Petitioner indicates these pages were intended for a different application.

However, 37 CFR 1.59(a)(2) states:

> Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

Accordingly, the identified drawings will not be expunged from the record pursuant to 37 CFR 1.59(b) even though they were mistakenly filed. Moreover, petitioner has not established that an extraordinary situation exits in which justice requires the requested expungement pursuant to a waiver of 37 CFR 1.59(a)(2) under 37 CFR 1.183, as discussed in MPEP 724.05 IV.

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



Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Michael Scaturro
Johnson & Scaturro
679 Third Place South
Garden City, New York 11530

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DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

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SEP 30 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bora Muammer Onat :
Application Number: 61/076980 :
Filed: 06/30/2008 :
Attorney Docket Number: 293-012US :

This is a decision on the petition filed on August 25, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of June 30, 2008.

The petition is **GRANTED**.

The application was filed on June 30, 2008, without drawings. Accordingly, on August 18, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on August 25, 2008, the subject petition was filed. Petitioner asserts that that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

A review of the record reveals that the application papers deposited on June 30, 2008, contain at least one method claim. Accordingly, the application is treated as a provisional application containing at least some disclosure of a process or method.

Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on August 18, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of June 30, 2008, without drawings as a part of the original disclosure. No petition fee is due.

The petition fee will be refunded to petitioners.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to June 30, 2008, and for an indication in Office records that no (0) drawings were present on filing.

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

D Wood

Douglas I. Wood
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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 11 2008

In re Application of :
Lutsen :
Filed: June 30, 2008 : ON PETITION
Application No. 61/077,024 :
Dkt. No.: IMEC578.001PRF :

This is a decision on the "PETITION TO BE ACCORDED ORIGINAL FILING DATE IN A PROVISIONAL APPLICATION ," filed July 25, 2008 to accord the above-identified application a filing date of June 30, 2008.

The petition is **GRANTED**.

The application was submitted June 30, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed June 14, 2008. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioners argue that drawings are not necessary for an understanding of the subject matter disclosed in the application

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all

the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application discloses a method. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of June 30, 2008. Therefore, the Notice of Incomplete Provisional Application is withdrawn.

The application will be processed with only the papers present on June 30, 2008, without drawings as part of the original disclosure.

No fee is due in connection with this matter.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of June 30, 2008 using only the papers present on that day and without entry of any drawings into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/077,099	06/30/2008	Les Okrasa	

CONFIRMATION NO. 1969

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/12/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/077,102	06/30/2008	Les Okrasa	

CONFIRMATION NO. 1984

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **06/12/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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WADDEY & PATTERSON PC
1600 DIVISION STREET SUITE 500
NASHVILLE TN 37203

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Rocky Gene Boros	:	
Application No. 61/077,131	:	DECISION ON PETITION
Filed: June 30, 2008	:	
Attorney Docket No. 000692	:	

This is a decision on the paper titled "RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION", filed September 29, 2008, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of June 30, 2008.

The petition under 37 CFR 1.53 is **GRANTED**.

The application was deposited on June 30, 2008. However, on July 29, 2008, the Initial Patent Examination Division mailed a "Notice of Incomplete Provisional Application", notifying applicant that the application papers had been deposited without drawings, and stating that the filing date of the application would be the date of receipt of the omitted drawings.

Petitioner points out, and a review of the application confirms, that drawings are contained in the Appendix filed with the application. In view thereof, the petition is granted.

Given the basis for granting the petition, no petition fee has been charged.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of June 30, 2008, using the application papers filed on that date.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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2 BEN GURION ROAD
RAMAT GAN 52573 IL ISRAEL

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Batan :
Application No. 61/077,546 : DECISION
Filed/Deposited: 2 July, 2008 :
Attorney Docket No. B-0187-0001 :

This is a decision on the petition filed on 15 September, 2008 (and again on 26 September, 2008), and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 2 July, 2008.

On 14 July, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 14 September, 2008, and again on 26 September, 2008, Petitioner filed, *inter alia*, a petition averred therein not that drawings were not necessary for the understanding of the subject matter sought to be patented.

Petitioner does state that the instant application contains one or more method(s) claims, and that information is evident upon review of the file.

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 2 July, 2008, without drawings, and the Office transmitted to Petitioner on 14 July, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(*Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).*)

In view of the foregoing, the Notice mailed on 20 August, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

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

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

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

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 2 July, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived—should Petitioner later find that the petition fee was charged, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 2 July, 2008, with the 8 pages of specification (description, claims, and abstract) deposited on 2 July, 2008, and **no** drawings as the original disclosure.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

[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] 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
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ABELMAN, FRAYNE / VISA
666 THIRD AVENUE , 10TH FLOOR
NEW YORK, NY 10017

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DEC 18 2008

In re Application of Schmitz et al. :
Application No. 61/077,813 : Decision on Petition
Filing Date: July 2, 2008 :
Attorney Docket No. P-14943PRV/209,746 :

This is a decision on the petition under 37 CFR 1.53 filed on July 31, 2008, requesting that the above-identified provisional application be accorded a filing date of July 2, 2008.

The petition is **granted**.

On July 2, 2008, the application was filed.

The specification filed on July 2, 2008, referenced a "Fig. 1" but no drawing labeled Figure 1 was filed as part of the application papers.

On July 28, 2008, a Notice was mailed stating that the application was filed without drawings. The Notice stated a filing date had not been accorded and the filing date would be the date of receipt of drawings.

It is the practice of the PTO to treat a provisional application that contains at least some disclosure directed to a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) 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)....
>
> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains some disclosure directed to a process or method. Therefore, the application will be accorded a filing date of July 2, 2008.

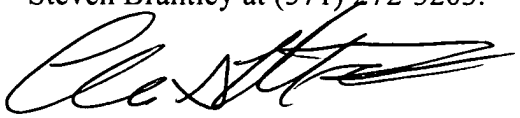
Per 601.01(g), rather than mailing a Notice of Incomplete Application, the Office should have mailed a Notice of Omitted Items informing petitioner a filing date had been accorded and that the drawing figures referred to in the specification appeared to be missing. Therefore, the Notice of Incomplete Application mailed July 28, 2008, was mailed in error and is hereby withdrawn.

Petitioner contends page 5 of the specification should be considered to be a drawing. Upon review of the record, the Office has determined the page is adequate to be considered a "drawing" in the instant provisional application. However, such a determination is not an indication an identical page would, or would not, be considered a drawing if filed in a nonprovisional application.

The petition fee of $400 will be credited to petitioner's deposit account.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of July 2, 2008, and will treat page 5 of the papers filed July 2, 2008, as a drawing. The Office of Patent Application Processing should note page 5 is currently the first page under the code Appendix in the Image File Wrapper.

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

WEAVER AUSTIN VILLENEUVE
& SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

COPY MAILED

DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Im, et al. :
Application No. 61/078,246 : DECISION
Filed/Deposited: 3 July, 2008 :
Attorney Docket No. SOLAP005P/080702US :

This is a decision on the petition filed on 30 September, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 3 July, 2008.

On 30 July, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 30 September, 2008, Petitioner filed, *inter alia*, a petition but appears to have failed to aver therein not that drawings were not necessary for the understanding of the subject matter sought

to be patented. (Petitioner states only that the reference to the drawings/figures was an error on the part of Petitioner.)

Petitioner does not state that the instant application contains one or more method(s) claims, however, that information is evident upon review of the file.

(Petitioner seeks to add the drawing and take a later filing date if the earlier filing date is not accorded. As will be evident, that issue is moot and will not be further addressed.)

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 3 July, 2008, without drawings, and the Office transmitted to Petitioner on 30 July, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(*Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).*)

In view of the foregoing, the Notice mailed on30 July, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

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

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

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 3 July, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded to Deposit Account 50-4480—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 12 July, 2008, with the 7 pages of specification (description, claims, and abstract) deposited on 12 July, 2008, and **no** drawings as the original disclosure.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

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

§1.2 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

GERALD A. RENO
17919 SPARROWS NEST DR.
LUTZ FL 33558

COPY MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Reno :
Application No. 61/078,441 : DECISION
Filed/Deposited: 6 July, 2008 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 29 May, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

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

Petitioner may, in the alternative, file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

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

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that

guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (copy enclosed) mailed on 28 July, 2008, with reply due absent extension of time on or before 28 September, 2008.

The application went abandoned by operation of law after midnight 28 September 2008.

The Office mailed the Notice of Abandonment on 1 April, 2009.

On 29 May, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, but failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring:

- a copy, *inter alia,* , *inter alia* of the Petitioner's/firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and;

- recitations, *inter alia*, as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and other such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

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

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]
>
> ***

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b)—requirements include petition, petition fee, reply (to the Office action) and a terminal disclaimer and fee where appropriate. Petitioner should review the current fee schedule at the Office website for fees due at the time of filing.

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

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

STATUTES, REGULATIONS

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

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[1] *See*: MPEP §711.03(c) (I)(A).

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

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

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

ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
61/078,441	07/06/2008	Gerald A. Reno	

CONFIRMATION NO. 6961

Gerald A. Reno
17919 Sparrows Nest Dr.
Lutz, FL 33558

FORMALITIES LETTER

OC000000031213991

Date Mailed: 07/28/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

An application number and filing date have been accorded to this provisional application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The provisional application cover sheet under 37 CFR 1.51(c)(1), which may be an application data sheet (37 CFR 1.76), is required identifying:
  - either city and state, or city and foreign country, of the residence of each inventor.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **4,5** described in the specification.

Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the provisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f))*, which will be refunded if it is determined that the item was in fact received by the USPTO), with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The failure to file a petition (and petition fee) within **TWO MONTHS** of the date of this Notice *(37 CFR 1.181(f))* will be treated as a constructive acceptance by the applicant of the provisional application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b)** . In the absence of a timely petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/bnguyen/

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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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
61/078,441	07/06/2008		105			

CONFIRMATION NO. 6961

Gerald A. Reno
17919 Sparrows Nest Dr.
Lutz, FL 33558

FILING RECEIPT

Date Mailed: 07/28/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Gerald A. Reno, Lutz, FL;

Power of Attorney: None

If Required, Foreign Filing License Granted: 07/25/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/078,441**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

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

System and Method for High-Efficiency Processing of Community Association Violations

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/078,441	07/06/2008	Gerald A. Reno	

CONFIRMATION NO. 6961

Gerald A. Reno
17919 Sparrows Nest Dr.
Lutz, FL 33558

FORMALITIES LETTER

OC000000031228814

Date Mailed: 07/28/2008

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 07/28/2008 to the Notice to File Missing Parts (Notice) mailed 07/28/2008 and it has been entered into the provisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

- Surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of $25 was not received.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **4,5** described in the specification.

Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the provisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f))*, which will be refunded if it is determined that the item was in fact received by the USPTO), with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The failure to file a petition (and petition fee) within **TWO MONTHS** of the date of this Notice *(37 CFR 1.181(f))* will be treated as a constructive acceptance by the applicant of the provisional application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b)** . In the absence of a timely petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/bnguyen/

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/078,441	07/06/2008	Gerald A. Reno	

CONFIRMATION NO. 6961

Gerald A. Reno
17919 Sparrows Nest Dr.
Lutz, FL 33558

ABANDONMENT/TERMINATION LETTER

Date Mailed: 04/01/2009

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on07/28/2008.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or

3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

/twoldeyes/

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

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WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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NOV 0 5 2008

OFFICE OF PETITIONS

In re Application of :
FEDYNYSHYN et al. :
Application No. 61/078,939 : DECISION ON PETITION
Filed: July 8, 2008 :
Attorney Docket No. 101328-244 :

This is a decision on the "PETITION FOR ORIGINAL FILING DATE UNDER 37 C.F.R. §1.53(e)," filed October 6, 2008.

The above-identified application was deposited on July 8, 2008. On August 7, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application, stating that the application was deposited without drawings.

On October 6, 2008, petitioners submitted the present petition. Petitioners assert that the application does not require drawings for an understanding of the invention as the application contains method and composition claims. A review of the provisional application papers deposited on July 8, 2008, reveals that the application contains method and composition claims.

As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method 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. MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method and composition claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application will be accorded a filing date of July 8, 2008, without any drawings.

Accordingly, the petition is **granted**. The $400.00 petition fee is unnecessary and will be refunded in due course.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of **July 8, 2008**, with "0" sheets of drawings, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 30 2009

OFFICE OF PETITIONS

In re Application of
Michael Marcus
Application No. 61/079,000
Filed: July 8, 2008
Attorney Docket No.: 5986/79485-PR0

ON PETITION

This is a response to the petition filed March 30, 2009, to revive abandoned application no. 61/079,152. The petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of application no. 61/079,000

The petition is **GRANTED** to the extent indicated.

Petitioner argues that application 61/079,152 was filed July 9, 2008 using the Electronic Filing System (EFS), but that a Notice to File Missing Parts was mailed on July 17, 2008 alleging that the filing requirements of 61/079,000 which was filed on July 8, 2008, also using the Electronic Filing System (EFS), had not been met and thus became abandoned for failure to file a timely response and for which a Notice of Abandonment was mailed March 23, 2009.

Petitioner argues that a response to the July 17, 2008 Notice was in fact filed on July 29, 2008 and includes with the instant petition a copy of the response said to have been filed, with a certificate of mail date of July 29, 2008.

A review of the record reveals that a response to the Notice to File Missing Parts was in fact filed however, the response indicated that it was for application no. 61/079,152 and thus was appropriately filed therein.

While the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response. In view thereof, the response was timely filed and the Notice of Abandonment mailed March 23, 2009 is hereby withdrawn. No petition fee is due and none has been charged.

However, a further review of the file reveals that in application no. 61/079,000 there is an EFS ID # of 3583221 with a filing date of 7/8/08 and receipt time of 17:02:56 and

that application no. 61/079,152, which is the application the petitioner claims to have filed, has an EFS ID # of 3585907, has a filing date of 7/9/08 and receipt time of 10:36:33.

As no additional information has been provided, it can only be assumed that in application no. 61/079,000, either the applicant closed the brower before paying for fees or their computer crashed, something happened after hitting submit and before paying fees. The Acknowledgment Receipt was not issued to the customer until 2 hours and 50 minutes after submission of the documents and thus, applicant may have assumed that the transaction was not completed and therefore filed the application again on July 9, 2008 which was accorded application no. 61/079,152.

Nonetheless, two identical applications exist and if Petitioner would like to have the applications merged, a petition under 37 CFR 1.182 and fee will need to be filed.

Until such time as the applications are merged, if petitioner chooses to do so, petitioner is cautioned to be careful and to properly indicate the application serial no. on correspondence when communicating with the USPTO in the future, to minimize any potential for confusion that may cause a delay in an action regarding the above identified patent application.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GROOVER & ASSOCIATES
BOX 802889
DALLAS TX 75380-2889

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DEC 05 2008

OFFICE OF PETITIONS

In re Application of :
Lawrence Cauller et al. :
Application No. 61/079,004 : ON PETITION
Filed: July 8, 2008 :
Attorney Docket No. MTSP-36P :

This is a decision on the communication filed August 26, 2008, requesting that the above-identified application be accorded a filing date of July 8, 2008, in response to the Notice of Omitted Items mailed August 15, 2008. The response is treated as a petition under 37 CFR 1.182.

The petition is **DISMISSED**.

On July 8, 2008, the application was filed. On August 15, 2008, the Office of Data Management mailed a Notice of Omitted Items in a Provisional Application stating that the application had been accorded a filing date of July 8, 2008, but that Figures 1-11 described in the specification appeared to have been omitted.

In response, petitioners concede that Figures 1-11 were in fact inadvertently omitted from the application as filed, but request that the application, including Figures 1-11, be accorded a filing date of July 8, 2008.

At the outset, the instant petition is not accompanied by the statutorily set petition fee in the amount of $400 and neither has an authorization to a deposit account been provided.

Thus, this petition cannot be treated on the merits.

Although, the petition, if considered substantively, also would have to be dismissed because as Figures 1-11 were not filed with the application, and since this was all due to applicant's filing error, the Notice of Omitted Items correctly stated that Figures 1-11 appeared to have been omitted.

Petitioners are further advised that for provisional applications, the option to take the later filing date, *i.e.*, the date of submission of the omitted page(s) or

drawing(s), is not available.[1] As such, if petitioners desired to have Figures 1-11 considered as part of the application, petitioners should simply file a new completed provisional application, including Figures 1-11.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of July 8, 2008, using the application papers filed on that date. The drawings filed with the petition will not be used and will not be added to the drawings filed with the application on July 8, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 601.01(d). In view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of submission in provisional applications. The applicant should simply file a new completed provisional application. Id.

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OCT 2 7 2008

OFFICE OF PETITIONS

In re Application of :

EGOZY, Eran et al. :
Application No. 61/079,094 : DECISION ON PETITION
Filed: July 08, 2008 : TO WITHDRAW
Attorney Docket No. **2006593-0062 (HRX-026PR)** : 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 30, 2008.

The request is **APPROVED**.

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

The request was signed by Kellan Poinkiewicz on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ERAN EGOZY**
C/O HARMONIX MUSIC SYSTEMS, INC.
675 MASSACHUSETTS AVE., SIXTH FLOOR
CAMBRIDGE MA 02139

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of	:	
Voker M. Quetschke, et al.	:	
Application No. 61/080,129	:	ON PETITION
Filed: July 11, 2008	:	
Attorney Docket No. UF-735P	:	

This is a decision on the petition under 37 CFR 1.182, filed August 26, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure

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
61/080,129	07/11/2008		105	UF-735P		

CONFIRMATION NO. 4090

CORRECTED FILING RECEIPT

23557
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

OC00000033151331

Date Mailed: 11/18/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Volker M. Quetschke, Gainesville, FL;
Wan Wu, Hampton, VA;
Luke Williams, Gainesville, FL;
Muzammil A. Arain, Gainesville, FL;
Rodica Martin, Gainesville, FL;
David Reitze, Gainesville, FL;
David B. Tanner, Gainesville, FL;
Guido Mueller, Gainesville, FL;

Power of Attorney:
James Parker--40119

If Required, Foreign Filing License Granted: 08/14/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/080,129**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

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

Title

MULTI ELECTRODE ELECTRO-OPTIC MODULATOR PROVIDING SUPPRESSION OF SPURIOUS AM DURING PHASE MODULATION BY USE OF WEDGED BIREFRINGENT ELECTRO-OPTIC CRYSTAL

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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CHOATE, HALL
& STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of :
Jablonski, et al. :
Application No. 61/080,245 : DECISION
Filed/Deposited: 12 July, 2008 :
Attorney Docket No. PCH001PRO :

This is a decision on the petition filed on 22 September, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 12 July, 2008.

On 20 August, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 22 September, 2008, Petitioner filed, *inter alia*, a petition but appears to have failed to aver therein not that drawings were not necessary for the understanding of the subject matter sought to be patented.

Petitioner does state that the instant application contains one or more method(s) claims, and that information is evident upon review of the file.

(Petitioner seeks to add the drawing and take a later filing date if the earlier filing date is not accorded. As will be evident, that issue is moot and will not be further addressed.)

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 12 July, 2008, without drawings, and the Office transmitted to Petitioner on 20 August, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(*Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).*)

In view of the foregoing, the Notice mailed on 20 August, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

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

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

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 12 July, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded to Petitioner's credit card—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 12 July, 2008, with the 7 pages of specification (description, claims, and abstract) deposited on 12 July, 2008, and **no** drawings as the original disclosure.

---

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

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

§1.2 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

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MAY 26 2009

OFFICE OF PETITIONS

HOLLAND & HART, LLP
555 17TH STREET
SUITE 3200
DENVER, CO 80202

In re Application of
GOODE, Theresa L. et al.
Application No. 61/080,884
Filed: July 15, 2008
Attorney Docket No. **59612.830001.US0**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2009.

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

The request was signed by Michael Henson on behalf of all attorneys of record who are associated with customer No. 26582. All attorneys/agents associated with the Customer Number 26582 have been withdrawn. Applicant is reminded that there is no attorney of record at this time. 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: **QUOTES ON BOARD, LLC**
P. O. BOX 36003
DENVER CO 80236-0003

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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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
John C. Reed	:	
Application No. 61/081,363	:	DECISION ON PETITION
Filed: July 16, 2008	:	TO WITHDRAW
Attorney Docket No. 027334-000300US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 21, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Kenneth E. Jenkins does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: John C. Reed
c/o Burnham Institute for Medical Research
10901 North Torrey Pines Road
La Jolla, CA 92037

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 12 2009

OFFICE OF PETITIONS

Peter Lang
4014 148th Ave NE
Redmond WA 98052

In re Application of :
Lang et al. :
Application No. 61/081,627 : ON PETITION
Deposited: July 17, 2008 :
For: Trellis Payport :

This is in response to the Petition To accord Filing Date To Provisional Patent Application filed December 22, 2008. This petition is properly treated under 37 CFR 1.53[1]

The petition is **dismissed**.

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

Application papers in the above-identified application were deposited on July 17, 2008. However, on October 20, 2008, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Provisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without complete specification pursuant to 35 USC 112.

Petitioner acknowledges that the papers submitted for the patent application did not include a specification. However, petitioner contends that a trademark application was filed on July 17, 2008, which included the specification. Petitioner maintains that the filing date of July 17, 2008 should be granted because the relevant sections of both 35 USC and 37 CFR require that the required parts be filed with the U.S. Patent and Trademark Office, not any particular unit or division. Alternatively, petitioner requests a waiver of any procedural requirements.

---

[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.

Petitioner's arguments have been considered but not deemed persuasive. Pursuant to 37 CFR 1.53(c) the filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office.

35 USC 111(b) requires that a provisional application include a specification. The application papers submitted on July 17, 2008 to obtain a patent application filing date did not include a specification as required. Applicant cannot rely on a previously filed specification in another application (except with limited circumstances under 37 CFR 1.57(a)), let alone point to a specification in a trademark.

The previously filed specification in the trademark application does not satisfy the statutory requirement that a specification is present amongst the papers submitted to obtain a provisional application filing date.

Petitioner's request for waiver cannot be granted. The failure to submit a specification pursuant to 35 USC 112 is more than a procedural requirement. 37 CFR 1.183 allows in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived. In this instance, the requirement that a specification be included with application papers submitted for a filing date is statutory and cannot be waived.

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

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

Alexandria, VA 22314

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PETER W LANG
1523 1ST STREET
KIRKLAND WA 98033

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DEC 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Lang, et al. :
Application No. 61/081,627 : ON PETITION
Filed: July 17, 2008 :
Title: Trellis Payport :

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2009, to revive the above-identified application.

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

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (2), the petition fee.

Petitioner submitted $60 for the petition fee. The small entity petition fee for a petition to revive under 37 CFR 1.137(b) (unintentional delay) is **$810**.

Accordingly, on renewed petition, petitioner must submit $750 for the balance of the petition fee. At that time the petition will be considered on the merits.

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)272-3207.

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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Paper No.

WILSON SONSINI
GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Hamid Hojaji :
Application No. 61/081,659 : DECISION
Filed: July 17, 2008 : ON PETITION
Atty Docket No. 34400-711.101 :

This is in response to the "PETITION UNDER 37 C.F.R. § 1.53 TO GRANT FILING DATE OF PROVISIONAL APPLICATION," filed October 1, 2008.

Application papers in the above-identified application were deposited on July 17, 2008. However, on August 1, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, applicant timely filed the instant petition. The required $400 petition fee has been charged to petitioner's Deposit Account, as authorized. Applicant asserts that the drawings are not necessary for the understanding of the subject matter sought to be patented.

A review of the specification reveals that it refers to drawing figures, but no drawings were in the application-as-filed. 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). See MPEP 601.01(f). However, the instant application has no claims. Thus, it was proper for the Office to mail a Notice of Incomplete Provisional Application. Nonetheless, in view of petitioner's contention that drawings are not necessary, it is concluded that this provisional application is entitled to a filing date.

In view thereof, the petition is **GRANTED** to the extent that the provisional application is accorded a filing date of July 17, 2008 with no drawings present in the application.

The petition was not necessitated by any error on the part of the Office. The petition fee will not be refunded.

The Office of Patent Application Processing has been advised of this decision. The Office of Patent Application Processing will **correct the filing date to July 17, 2008**, with "0" drawings present in the application.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from the Office of Patent Application Processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/081,785	07/18/2008	Les Okrasa	

CONFIRMATION NO. 1893

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **07/17/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE NOBLITT GROUP, PLLC
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE AZ 85251

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SEP 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Benjamim Tang et al :
Application No. 61/082,043 : DECISION ON PETITION
Filed: July 18, 2008 :
Attorney Docket No. 10057.6750 :

This is a decision on the request filed August 19, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **DISMISSED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web when the following conditions have been met:

(1) Applicant must certify that they had filed the duplicate application(s) prior to receiving appropriate confirmation from the Office that the initial application filing via EFS-Web was received by the Office;

(2) the request for a refund must be filed within three months from the filing date of the first application receiving an appropriate acknowledgement;

(3) the request must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director that the duplicate application was intended to be the original application;

(4) the duplicate application must have been filed via EFS-Web on or after March 16, 2006;

(5) the request must list the other application(s) of which the instant application is deemed to be a "duplicate"; and

(6) the request should include a statement of express abandonment of the instant application as it was filed in error.

When the above conditions have been met, the Office will generally accept the statement as an assertion that the duplicate application was filed by mistake without requiring further information.

The instant petition lacks items (1), (3) and (6) above.

Accordingly, the petition for refund of a duplicate filing fee under 37 CFR 1.181 cannot be granted at this time.

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

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

By 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 decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 11 2009

OFFICE OF PETITIONS

GREGORY A. STEPHENS
301 EDGEMORE AVENUE
CARY, NC 27519

In re Application of :

Peter VOGHEL, et al. :
Application No. 61/082,522 : DECISION ON PETITION TO
Filed: July 22, 2008 : WITHDRAW FROM RECORD
Attorney Docket No. **INQ-001-US-P** :

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, 2008.

The request is **APPROVED**.

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

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

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

Telephone inquiries concerning the status or examination of this application should be directed to the Office of Patent Application Processing at 571-272-4100

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

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

cc: **PETER M. VOGHEL**
InQ ENERGY, INC.
24 CENTRAL PLACE
ST. AUGUSTINE, FL 32084

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

PFIZER INC.
PATENT DEPARTMENT, MS8260-
1611
EASTERN POINT ROAD
GROTON CT 06340

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Damon et al.	:	DECISION ON
Application No. 61/083,559	:	PETITION
Filed: July 25, 2008	:	
Attorney Docket No. PC26172Prov2	:	

This is in response to the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION," filed August 29, 2008. Petitioner requests that the Office include in the above-identified provisional application figure 8 described in the specification which was omitted from the application on filing.

Application papers in the above-identified provisional application were filed on July 25, 2008. However, on August 7, 2008, the Office of Patent Application Processing mailed a "Notice of Omitted Item(s) In A Provisional Application," stating that the application had been accorded a filing date; however, Figure 8 described in the specification appeared to be omitted from the application. This Notice set a two-month period for reply.

In response, applicant timely filed the instant petition. Applicants do not assert that the application as filed included figure 8. Rather, applicants supply a complete copy of the application, including figure 8. In effect, applicants request that the application be amended to include the drawing figure.

The relief requested by applicants is not appropriate.

37 CFR 1.53(c) provides that:

> The filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.

Moreover, in a provisional application, the mailing of a "Notice of Omitted Item(s)" will permit the applicant to:

> (A) promptly establish prior receipt in the USPTO of the page(s) at issue. An applicant asserting that the page(s) was in fact received by the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f), along with evidence of such deposit (37 CFR 1.181(f)). The petition fee will be refunded if it is determined that the page(s) was in fact received by the USPTO with the application papers deposited on filing. See MPEP 601.01(d).

This section further provides that:

> In view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application.

In this instance, petitioner does not assert and does not submit any evidence to support a conclusion that the missing figure was received by the Office with the application papers. Thus, the application is not entitled to a filing date with figure 8 present in the application. Petitioner, in effect, acknowledges that the drawing figure was omitted and requests that the provisional application be amended to add the drawing figure. Pursuant to 37 CFR 1.53(c), this provisional application cannot be amended to add figure 8.

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

Any request for reconsideration must be filed within **TWO MONTHS** of the mailing date of this decision. This period is governed by 37 CFR 1.181(f) and is not extendable under 37 CFR 1.136(a).

The specification, including figure 8, filed August 29, 2008 will not be entered.

The petition fee will not be refunded as the petition was necessitated by the condition of the application on filing.

This provisional application will maintain a filing date of July 25, 2008, using the application papers deposited on that date.

The provisional application is being forwarded to the Office of Patent Application Processing for completion of processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
John Michael Ashby	:	
Application No. 61/083889	:	
Filing or 371(c) Date: 07/25/2008	:	
Attorney Docket Number:	:	DECISION
120174.401P1	:	ON PETITION

This is a decision on the "Petition to Accord Filing Date to Provisional Application," filed August 21, 2008. The petition is properly treated under 37 CFR 1.182

The petition is granted.

The application was filed on July 25, 2008. On August 14, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and avers that the application does not require drawings for an understanding of the invention as the application contains method claims.

A review of the file reveals that the Applicant is correct, the specification contains method claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process, method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains 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 applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice mailed August 14, 2008, was mailed in error and is hereby withdrawn.

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of July 25, 2008, and an indication that no drawings were present or required on filing.

The petition fee has been refunded to Petitioner's deposit account.

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

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/083,939	07/27/2008	Les Okrasa	

CONFIRMATION NO. 1283

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **07/23/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gary Mekikian
4274 Beulah Drive
La Canada CA 91011

MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of :
Gary Mekikian :
Application No.: 61/084240 : DECISION ON
Filing or 371(c) Date: 07/28/2008 : PETITION
Title of Invention: :
EFFICIENT DIGITAL FILTER :
IMPLEMENTATIONS AND TRADEOFFS :

This is a decision in response to the correspondence filed May 1, 2009, and supplemented June 2, 2009, where Petitioner asserts that a timely reply to the Notice to File Missing Parts of Provisional Application, mailed August 13, 2008, was filed. The petition is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a).

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Provisional Application ("Notice"), mailed August 13, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 14, 2008. A Notice of Abandonment was mailed April 15, 2009.

The present petition

Petitioner files the present petition and asserts that a timely reply to the Notice was filed via facsimile to 571-273-0177. In support of this assertion, Petitioner includes a copy of the reply.

Review of the copy of the reply

A review of the copy of the reply filed with the petition reveals that the reply does not contain any identifying information that would allow this Office to match the papers to the present application filed.

The applicable Rule, 37 CFR 1.5, Identification of patent, patent application, or patent-related proceeding, states:

> (a) No correspondence relating to an application should be filed prior to receipt of the application number from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07 /123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.
> (b) When the letter concerns a patent other than for purposes of paying a maintenance fee, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention. For letters concerning payment of a maintenance fee in a patent, see the provisions of § 1.366(c).
> (c) [Reserved]
> (d) A letter relating to a reexamination proceeding should identify it as such by the number of the patent undergoing reexamination, the reexamination request control number assigned to such proceeding, and, if known, the group art unit and name of the examiner to which it been assigned.
> (e) [Reserved]
> (f) When a paper concerns a provisional application, it should identify the application as such and include the application number.

The Manual of Patent Examining Procedure ("MPEP") explains:

> All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be

returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions.

It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

(A) Application number (checked for accuracy, including series code and serial no.).
(B) Art Unit number (copied from most recent Office communication).
(C) Filing date.
(D) Name of the examiner who prepared the most recent Office action.
(E) Title of invention.
(F) Confirmation number (see MPEP § 503).

In this instance, Petitioner filed the reply but failed to include the application number or filing date of the application. As noted above, when a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number, and the failure to give any application is not a minor error.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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 regarding this decision should be directed to the undersigned at (571) 272-3232.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Gary Mekikian
4274 Beulah Drive
La Canada CA 91011

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Gary Mekikian :
Application No.: 61/084240 : DECISION ON
Filing or 371(c) Date: 07/28/2008 : PETITION
Title of Invention: :
EFFICIENT DIGITAL FILTER :
IMPLEMENTATIONS AND TRADEOFFS :

This is a decision in response to the "Renewed Petition Under 37 C.F.R. 1.181(a) for Reconsideration of a Prior Holding of Abandonment of a Provisional Patent Application," filed September 9, 2009. Included with the petition as "Part II," is a request to correct the inventorship of the present provisional application.

This renewed Petition under 37 CFR 1.181 is hereby **dismissed**.

The petition to correct inventorship is **dismissed as inappropriate**.

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

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. 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. Petitioner should remember that it is not enough that a reply was filed; petitioner must prove that the reply was both complete and proper (including timely). A petition will not be granted if petitioner provides insufficient evidence to 'show' that the reply was complete and proper. Therefore, if a request for reconsideration is filed, it must establish that the reply was both a complete and proper reply as the condition of the application required.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Provisional Application ("Notice"), mailed August 13, 2008. The Notice required a Provisional Application Cover Sheet, and a surcharge for the late

submission of the Cover Sheet, and set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 14, 2008. A Notice of Abandonment was mailed April 15, 2009.

The May 1, 2009 petition

Petitioner filed a petition on May 1, 2009, wherein petitioner asserted that a timely reply to the Notice was filed via facsimile to 571-273-0177. In support of this assertion, Petitioner included a copy of the reply.

Review of the copy of the reply

A review of the copy of the reply filed with the petition revealed that the reply did not contain any identifying information that would allow this Office to match the papers to the present application filed.

The applicable Rule, 37 CFR 1.5, Identification of patent, patent application, or patent-related proceeding, states:

> (a) No correspondence relating to an application should be filed prior to receipt of the application number from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07 /123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.
> (b) When the letter concerns a patent other than for purposes of paying a maintenance fee, it should state the number and date of issue of the patent, the name of the patentee,

> and the title of the invention. For letters concerning payment of a maintenance fee in a patent, see the provisions of § 1.366(c).
> (c) [Reserved]
> (d) A letter relating to a reexamination proceeding should identify it as such by the number of the patent undergoing reexamination, the reexamination request control number assigned to such proceeding, and, if known, the group art unit and name of the examiner to which it been assigned.
> (e) [Reserved]
> (f) When a paper concerns a provisional application, it should identify the application as such and include the application number.

The Manual of Patent Examining Procedure ("MPEP") explains:

> All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions.
> It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:
> (A) Application number (checked for accuracy, including series code and serial no.).
> (B) Art Unit number (copied from most recent Office communication).
> (C) Filing date.
> (D) Name of the examiner who prepared the most recent Office action.
> (E) Title of invention.
> (F) Confirmation number (see MPEP § 503).

Decision dismissing petition

A Decision dismissing the petition was mailed July 9, 2009. The decision explained that the reply failed to include the application number or filing date of the application. As noted above, when a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number, and the failure to give any application is not a minor error. (Emphasis supplied).

The present renewed petition

Petitioner files the present renewed petition and asserts that a timely proper response to the Notice was filed on September 12, 2008. Petitioner notes that the response included a credit card authorization to charge $50.00 representing the surcharge for the late filing (of the coversheet); however, the surcharge was apparently never processed and as such, petitioner includes $25.00 small entity, "applicable at the time the response was filed on September 12, 2008, is transmitted as well." Petition at p.8.

Petitioner notes that the filing of the application and subsequent mailing of the Notice "is not an issue." Petition at p.9. Petitioner states that a 12 pages were transmitted to the Electronic Business Center via facsimile to 571-273-0177 in response to the Notice, on September 12, 2008.. Petitioner avers that the response included an executed Cover Sheet and Form PTO-2038 (Credit Card Payment Authorization Form). Petitioner also avers that a request for a refund of excess fees was included with the response, and that subsequently, on or around September 16, 2008, Petitioner received a letter from this Office indicating that the request for a refund was being processed. A copy of the letter has been submitted with the present petition, and Office records reveal that a refund of excess filing fees was processed on September 17, 2008. Petitioner argues that the letter from this Office strongly indicates receipt of both the refund request and accompanying response to the Notice.

Petitioner "disagrees" with the Decision on Petition mailed July 9, 2009, "that the May 1, 2009 and June 2, 2009 and/or the original September 12, 2008 reply to the Missing Parts were not sufficiently identified to match with the '240 provisional file." Petition at pp. 12-13. Petitioner argues that the May 1, 2009 and June 2, 2009 replies contained sufficient information to identify the application. Petitioner infers that because the Decision on petition contains the relevant identifying information regarding the provisional application, that sufficient information existed to match the response to the '240 application. Id., at pp.14-15.

Petitioner also notes that given Petitioner's lack of training as a patent attorney or agent, a valid attempt was made to comply with Office rules.

Analysis

1. The issue

At issue is whether a complete and proper, including timely, reply to the Notice to File Missing Parts of Provisional Application, mailed August 13, 2008, was filed. The Notice required a Provisional Application Cover Sheet, and a surcharge for the late submission of the Cover Sheet, and set a two (2) month period for reply.

2. Office records

A review of Office records reveals that Applicant filed a 14-page request for refund on September 17, 2008, asserting small entity status. Applicant noted that its credit card was charged $205.00, and that as a small entity it should have only paid $105.00. Applicant also submitted copies of Electronic Acknowledgment Receipts for provisional application nos.

61/084,013, 61/084,240, 61/084,241, 61/084,243, and 61/084,245, as evidence of the filing fees paid. The filing consisted of a one (1) page coversheet; a one (1) page refund request, 10 pages of copies of Electronic Acknowledgment Receipts (two (2) pages for each of the aforementioned provisional applications), and a copy of an Electronic Patent Application Fee Transmittal (two (2) pages). A review of the coversheet reveals that it is dated 9/12/2008, with the date having been entered in a font consistent with the other information relevant to the facsimile submission, i.e. To, From, and Time).

Applicant is advised that the USPTO file is the official record of the papers actually received or filed. In this instance, no Provisional Application Cover Sheet was filed on September 17, 2008.

3. The present petition

A review of the Cover Sheet putatively filed on September 17, 2008 (dated September 12, 2008), reveals that it does not comply with 37 CFR 1.8 or 37 CFR 1.10. As such, and pursuant to 37 CFR 1.6, the date of receipt is the filing date accorded the response. In this instance the dates of receipt of the Provisional Application Cover Sheet are May 1, 2009 and June 2, 2009.

Moreover, Petitioner asserts that a Cover Sheet was filed in this Office on September 17, 2008. A review of the copy of the Fax Cover Sheet putatively evidencing the filing of the response to the Notice, including the Provisional Application Cover Sheet on September 17, 2008, reveals that the coversheet has been dated 9/12/2008, however, the date has been entered by hand, and in a font that is not consistent with the other information relevant to the facsimile submission, (i.e. "To," "From," and "Time"). However, the font for the other information relevant to the facsimile submission, (i.e. To, From, and Time), are consistent with the fax coversheet received on September 17, 2008. In the facsimile submission received in this Office on September 17, 2008, the font is consistent for the entries of the "Date," "From," "To" and "Time." Petitioner does not explain why the facsimile coversheet, which putatively included a Provisional Application Cover Sheet, and was putatively sent on the same day ***and time*** as the 14 page facsimile received in this Office on September 17, 2008, includes a hand-written date, while the sender ("From"), recipient ("To"), and time are in the same font. (Emphasis supplied).

Regarding the Decision on petition, and Petitioner's disagreement with the Decision on Petition mailed July 9, 2009, "that the May 1, 2009 and June 2, 2009 and/or the original September 12, 2008 reply to the Missing Parts were not sufficiently identified to match with the '240 provisional file, Petitioner is reminded that the issue is whether a complete and proper, including timely response to the Notice was filed. (Emphasis supplied). The Decision on petition addressed "the copy of the reply filed with the petition" filed to demonstrate that a complete and proper, including timely, response to the Notice was filed. The May 1, 2009 and June 2, 2009 filings were filed after the application was held abandoned, and also failed to demonstrate that a complete and proper, including timely, response to the Notice was filed. Petitioner has conflated the responses filed September 17, 2008; May 1, 2008 and June 2, 2009; however, whether the filings of May 1, 2009 and June 2, 2009, contained information sufficient to identify the present application is not relevant to whether petitioner filed a complete and proper, including timely, response to the Notice. The issue, as addressed in the petition to withdraw the holding of abandonment, was whether Petitioner had demonstrated that a complete and proper, including

timely, response to the Notice was filed, and the Decision on petition correctly noted that "the copy of the reply filed with the petition," filed to demonstrate that a complete and proper, including timely, response to the Notice was filed, and "does not contain any identifying information that would allow this Office to match the papers to the present application file."

Regarding Petitioner's inference that because the Decision on petition contains the relevant identifying information regarding the provisional application, that sufficient information existed to match the response to the '240 application, it is again noted that the issue is whether Applicant filed a complete and proper reply to the Notice. The Office, as Petitioner noted, issued a filing receipt containing the application information. Petitioner, however, has failed to demonstrate whether his putatively-filed reply complied with the applicable law, rules and MPEP.

Regarding the Applicant's lack of training as a patent attorney or agent, Petitioner is advised that it is an applicant's responsibility to either retain counsel to prosecute his application, or to familiarize himself with the laws, rules of practice and MPEP. An Applicant who elects to proceed in prosecuting his application without an attorney steps into the shoes of the attorney. The rules of practice do not diverge depending upon whether one is an attorney or an applicant appearing before this office in proper person. It is Applicant's obligation to inform himself about the obligations associated with prosecuting his application. See, California Med. Prods. V. Tecnol Med., 921 F.Supp 1219 (D. Del. 1995).

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

Petition to correct inventorship

Petitioner is reminded of 37 CFR 1.4(c), which provides that "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Here, Petitioner has included with and as part of the renewed petition to withdraw the holding of abandonment, on pages 16-19, a petition to correct inventorship in a provisional application.

Petitions to correct inventorship are filed with OIPE, which handles requests under 37 CFR 1.48(d) and (e), to correct the inventorship in provisional applications. See, MPEP 201.03.

No fees have been charged at this time.

A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed and pending the grant of the petition to correct inventorship, 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: 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 regarding this decision should be directed to the undersigned at (571) 272-3232.

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

CC: ADVANTAGE IP LAW FIRM
3020 OLD RANCH PKWY
SUITE 340
SEAL BEACH, CA 90740

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADVANTAGE IP LAW FIRM
3020 OLD RANCH PARKWAY
SUITE 340
SEAL BEACH CA 90740

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Arthur Torosyan	:	
Application No.: 61/084240	:	DECISION ON
Filing or 371(c) Date: 07/28/2008	:	PETITION
Attorney Docket Number:	:	
GATEI.090029	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed January 19, 2010, and supplemented March 30, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed August 13, 2008. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on October 14, 2008. A Notice of Abandonment was mailed April 15, 2009.

Applicant files the present petition and drawings in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of a Provisional Application Coversheet and surcharge for late submission of the coversheet[1]; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

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[1] The application as-filed did not include a Provisional Application Coversheet, and pursuant to 37 CFR 1.41, Gary Mekikian was identified as the inventor. The Provisional Application Coversheet filed with the petition on January 19, 2010 identifies as the sole inventor Arthur Torosyan. On March 9, 2010 Petitioner filed amendments pursuant to 37 CFR 1.48(d) and (e) removing Gary Mekikian as the sole inventor, and adding Arthur Torosyan as the sole inventor. Office records have been corrected accordingly.

It is also noted that the fee for the petition under 37 CFR 1.48(d), adding Arthur Torosyan as the sole inventor, has been charged to petitioner's deposit account, in addition to the surcgarge for late filing of the Provisional Application Coversheet and fee for the petition under 37 CFR 1.48(e).

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
61/084,240	07/28/2008		105	GATEI.090029		

CONFIRMATION NO. 1603

CORRECTED FILING RECEIPT

50915
ADVANTAGE IP LAW FIRM
3020 OLD RANCH PARKWAY
SUITE 340
SEAL BEACH, CA 90740

Date Mailed: 04/19/2010

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Arthur Torosyan, La Cresenta, CA;

Power of Attorney: The patent practitioners associated with Customer Number 50915

If Required, Foreign Filing License Granted: 08/11/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/084,240**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Efficient Digital Filter Implementations and Tradeoffs

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gary Mekikian
4274 Beulah Drive
La Canada CA 91011

MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of :
Arthur Torosyan :
Application No.: 61/084241 : DECISION ON
Filing or 371(c) Date: 07/28/2008 : PETITION
Title of Invention: :
EFFICIENT TABLE METHOD FUNCTION :
APPROXIMATION IMPLEMENTATIONS :

This is a decision in response to the correspondence filed May 1, 2009, where Petitioner asserts that a timely reply to the Notice to File Missing Parts of Provisional Application, mailed August 13, 2008, was filed. The petition is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a).

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Provisional Application ("Notice"), mailed August 13, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 14, 2008. A Notice of Abandonment was mailed April 15, 2009.

The present petition

The present petition is filed by Gary Mekikian. A review of Office records reveal that Mr. Mekikian is not registered to practice before this Office. A review of the application file reveals that Mr. Mekikian is not listed as an inventor. A review of Office assignment records reveal that no assignment of the present application has been recorded with this Office.

The applicable Rule, 37 CFR 1.33, Correspondence respecting patent applications, reexamination proceedings, and other proceedings, states:

(b) Amendments and other papers. Amendments and other papers, except for

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

In this instance, Petitioner herein is (1) not a practitioner of record; (2) not a practitioner not of record acting in a representative capacity; (3) not the assignee, or (4) not an applicant (inventor). The applicable rule requires that all papers must be signed by one of the above.

Because the petition has not been properly signed, the petition is dismissed. A properly executed petition, signed by a proper party as listed above in 37 CFR 1.33, is required before the merits of the petition may be considered.

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 regarding this decision should be directed to the undersigned at (571) 272-3232.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/084,593	07/29/2008	Les Okrasa	

CONFIRMATION NO. 3079

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **07/28/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/085,358	07/31/2008	Les Okrasa	

CONFIRMATION NO. 6843

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **07/28/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND CA 94618

In re Application of :
Drewry et al. :
Application No. 61/085,415 : ON PETITION
Filed: August 1, 2008 :
Attorney Dkt. No. MOVIE104P :
For: Processing and Acting on :
Rules For Content Recognition :
Systems :

This is in response to the "Request for Filing Date and Filing Receipt Correction" filed August 15, 2008. Petitioner seeks the earlier filing date of July 31, 2008.

The petition is **DISMISSED**.

Application papers in the above-identified application were filed via the Electronic Filing System (EFS) on August 1, 2008. A filing date of August 1, 2008 was granted.

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

Petitioner contends that the application papers, which included 38 pages of drawings (figures 1-32D), 52 pages of specification and 6 pages of claims were submitted on December 12, 2008. Petitioner argues that the application papers were submitted via EFS on July 31, 2008 at 9:44:20 pacific standard time. Petitioner insists that the filing date of the application should be July 31, 2008 instead of the presently accorded filing date of August 1, 2008.

The evidence has been considered but it is not persuasive. 35 USC 111(a)(4) states in part (emphasis added):

> *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 official file confirms the application papers were received in the Office on August 1, 2008 at 00:44:20 Eastern Standard Time. Pursuant to the EFS -Web Legal Framework, the filing date of an application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of your newly filed application. There is no "certificate of transmission" practice for new application e-filings (37 CFR 1.8).

As such the above-identified application is not entitled to an earlier filing date.

Pursuant to applicant's request deposit account 50-0292 will be charged the $400.00 petition fee.

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

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

Petitioner may also reply using EFS.

Telephone inquiries concerning this matter may 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
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WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

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In re Application of	:	
Attarzadeh et al.	:	
Application No. 61/085490	:	
Filing or 371(c) Date: 08/01/2008	:	
Attorney Docket Number:	:	DECISION
23853-P027V1	:	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), to revive the above-identified application, and on the Petition Under 37 CFR § 1.53(e) and MPEP 601.01(f), filed November 12, 2008, requesting the above-identified application be accorded a filing date of August 1, 2008. The petition under 37 CFR 1.137(b) is properly treated as a petition under 37 CFR 1.181 to withdraw the Notice of Incomplete Provisional Application, mailed August 14, 2008.

The petition under 37 CFR 1.181 granted.

The petition under 37 CFR 1.53(e) is granted.

The application was filed on August 1, 2008. On August 14, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (hereinafter "Notice"), informing Applicant, *inter alia*, that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the present petition and avers that drawings are not necessary under 35 U.S.C. 113 to understand the invention.

The application complies with the patent statute and regulations based upon applicant's assertion that the figures are not necessary for an understanding of the invention. Based upon Applicant's assertion, a filing date may be accorded the application papers deposited on August 1, 2008. Accord MPEP 601.01(f).

In view of the above, the Notice mailed August 14, 2008, was mailed in error and is hereby withdrawn.

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of August 1, 2008, using the application papers filed on that date, and an indication that no drawings were present or required on filing.

A refund of the petition fee has been credited to Applicant's deposit account.

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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OFFICE OF PETITIONS

In re Application of :
Farrokh Attarzadeh et al. :
Application No. 61/085,497 : DECISION GRANTING PETITION
Filed: August 1, 2008 :
Attorney Docket No. **23853-P026V1** :

This is a decision on the petition filed November 12, 2008, under 37 CFR 1.53, requesting that the above-identified provisional application be accorded a filing date of November 19, 2007. This decision is also on the petition filed on even date to revive the above-identified application, under 37 CFR 1.137(b).

The petition under 37 CFR 1.53(e) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was filed on August 1, 2008, without drawings. Accordingly, on August 15, 2008, the Office of Data Management mailed a "Notice of Incomplete Provisional Application" stating that the application had been deposited without drawings.

The present petition argues that drawings are not necessary for an understanding of the subject matter sought to be patented, and requests that the application be accorded a filing date of August 1, 2008.

Based on petitioners argument, this application will be accorded a filing date of August 1, 2008. Petitioner is advised, however, that this decision does not constitute a determination in accordance with 35 U.S.C. § 113 (first sentence). However, the "Notice" was correct in stating that the application appeared to have been incomplete. Thus, the petition fee in the amount of $400.00 has been charged to petitioner's deposit account.

The application will be processed for filing date purposes using the application papers present on August 1, 2008.

Petitioner is reminded that no amendment/corrections, other than to make the

provisional application comply with the patent statute and all applicable regulations, may be made to a provisional application after the filing date of the provisional application. See 37 CFR 1.53(c); 37 CFR 1.121(j). As such, if petitioners desire to have drawings included, petitioners should file a new completed provisional application.

With regards to the petition for revival, since this application did not have a filing date, it could not therefore become abandoned. In view thereof, petitioner's deposit account no. 23-2426 has been credited in the amount of $810.00 for the petition to revive fee.

This matter is being referred to the Office of Patent Application Processing for processing with a filing date of August 1, 2008, using only the application papers filed on that date, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/085,861	08/03/2008	Les Okrasa	

CONFIRMATION NO. 8717

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **08/03/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/085,899	08/04/2008	Les Okrasa	

CONFIRMATION NO. 8838

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/16/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **08/03/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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JAN 12 2010

OFFICE OF PETITIONS

The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
Midland MI 48641-1967

In re Application of :
CARLBERG et al. :
Application No. 61/086,311 : DECISION ON PETITION
Filed: 08/05/2008 :
Attorney Docket No. 67141 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

On August 18, 2008, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to reply. In the absence of a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application, the application became abandoned On October 19, 2008. A Notice of Abandonment was mailed on April 22, 2009.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made a proper statement of unintentional delay.

The application is revived to the extent that it is pending for a period no longer than twelve months from its filing date. See 35 U.S.C. 111(b)(5).

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of :
Christian Uhle et al. :
Application No. 61/086,361 : ON PETITION
Filed: August 5, 2008 :
Attorney Docket No. SCHO0510PR :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2009, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

The application was filed August 5, 2008. As noted in 35 USC 111(b)(5), "*upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). Subject to section 119(e)(3) of this title, if no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival after such 12-month period.*" As no request for conversion of the instant application to a non-provisional application was timely made, the instant application became abandoned at midnight on August 5, 2009, through operation of law.

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KOKKA & BACKUS, PC
200 PAGE MILL ROAD, SUITE 103
PALO ALTO, CA 94306

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AUG 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Bruce YOUNG, et al. :
Application No. 61/087,131 : DECISION ON PETITION TO
Filed: August 7, 2008 : WITHDRAW FROM RECORD
Attorney Docket No. **RIN-011P** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2009.

The request is **APPROVED**.

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

The request was signed by Kenneth Backus, the sole attorney of record. Kenneth Backus 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 assignee of the entire interest at the address below until otherwise properly notified by the applicant.

This provisional application expired on August 9, 2009.

Telephone inquiries concerning the status or examination of this application should be directed to the Office of Patent Application Processing at 571-272-4100

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

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

cc: **RINGCENTRAL, INC.**
999 BAKER WAY, SUITE 500
SAN MATEO, CA 94404

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Horn, et al. :
Application No. 61/087,145 : DECISION
Filed/Deposited: 7 August, 2008 :
Attorney Docket No. 082366P1 :

This is a decision on the petition filed on 20 October, 2008, under 37 C.F.R. §1.53, requesting amendment of the instant application to include previously omitted drawing FIG. 3 (by substitution of a new set of drawings) described in the specification, and thereby to obtain a filing date of 7 August, 2008, for FIG. 3 described in the specification

The petition under 37 C.F.R. §1.53 is **DISMISSED**.

A review of the application file reveals that:

The instant application was deposited on 7 August, 2008.

On 20 August, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Omitted Items, to wit: FIG. 3 described in the specification. Thus, the application was accorded a filing date, but without the drawing figure in question.

OPAP indicated that Petitioner might:

- contend via petition that drawing had been submitted on deposit and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the drawing; or

- accept the application as filed.

(Amendment of provisional applications is allowed only to the extent that a provisional application is compliant with statute.)

OIPE set a two- (2-) month period for reply.

Petitioner appears to have chosen none of the above.

On 20 October, 2008, Petitioner submitted a petition, but included therewith, *inter alia*, no true copy of Petitioner's date-stamped receipt card or electronic filing acknowledgement. (The Office always directs Petitioner to submit a true copy of the date-stamped receipt card (*see*: MPEP §503); alternatively, an acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007). And OPAP Notice instructed Petitioner to submit copies of the drawings if Petitioner averred they were present on deposit.) Petitioner averred that the drawing FIG. 3 described in the specification were not present on deposit as that numbered figure, but was present and mis-numbered (as a second FIG. 1).

Petitioner's arguments have been considered, however, as discussed herein the showing is not persuasive.

ANALYSIS

A search of the official file reveals that:

- Petitioner deposited the instant application on 7 August, 2008.
- The Office record reflects that the drawing FIG. 3 described in the specification was missing on deposit.

Petitioner acknowledges that on deposit of the application the drawing FIG. 3 was mis-numbered as a second "FIG. 1" in error.

(Petitioner is reminded that while the numbered FIG. 3 is not present in the application, the substance of the drawing figure was present on deposit.)

Petitioner seeks to substitute drawings herein—i.e., to amend this provisional application. Such action is not permitted, as set forth at 37 C.F.R. §1.53(c) and discussed at MPEP §601.01(b), to wit:

***

> **601.01(b) Provisional Applications Filed Under 35 U.S.C. 111(b) [R-3]**
> A provisional application will be given a filing date in accordance with 37 C.F.R. 1.53(c) as of the date the written description and any necessary drawings are filed in the Office. The filing date requirements for a provisional application set forth in 37 C.F.R.

§1.53(c)parallel the requirements for a nonprovisional application set forth in 37 C.F.R. §1.53(b), except that no claim is required. Amendments, other than those required to make the provisional application comply with applicable regulations, are not permitted after the filing date of the provisional application.

When the specification or drawing are omitted, 37 C.F.R. §1.53(e) requires that the applicant be notified and given a time period in which to submit the missing element to complete the filing. See MPEP §601.01(f) and §601.01(g) for treatment of applications filed without drawings, or filed without all figures of drawings, respectively. 37 C.F.R. §1.53(c)(1) requires all provisional applications be filed with a cover sheet, which may be an application data sheet (37 C.F.R. §1.76) or a cover letter identifying the application as a provisional application. The Office will treat an application as having been filed under paragraph (b), unless the application is clearly identified as a provisional application. A provisional application, which is identified as such, but which does not have a complete cover sheet as required by 37 C.F.R. §1.51(c)(1) will be treated as a provisional application. However, the complete cover sheet and a surcharge will be required to be submitted at a later date in conformance with 37 C.F.R. §1.53(g).

When the provisional application does not have a complete cover sheet or the appropriate fee, the applicant will be notified pursuant to 37 C.F.R. §1.53(g) and given a time period in which to provide the necessary fee or cover sheet and to pay the surcharge as set forth in 37 C.F.R. §1.16*>(g)< in order to avoid abandonment of the application. The time period will usually be set at 2 months from the date of notification. This time period may be extended under 37 C.F.R. §1.136(a). If the filing fee is not timely paid, the Office may dispose of the provisional application. If no correspondence address has been provided, applicant has 2 months from the filing date to file the basic filing fee, cover sheet, and to pay the surcharge as set forth in 37 C.F.R. §1.16*>(g)< in order to avoid abandonment of the provisional application. Copies of a provisional application will be provided by the USPTO upon request and payment of the fee set forth in 37 C.F.R. §1.19(b) unless the provisional application has been disposed of (see 37 C.F.R. §1.53(e) and (g)).

The basic filing fee must be paid in a provisional application on filing or within the time period set forth in 37 C.F.R. §1.53(g), and the provisional application must be entitled to a filing date under 37 C.F.R. 1.53(c), if any claim for benefits under 35 U.S.C. 119(e) based on that application is made in a subsequently filed
37 C.F.R. §1.53(e)(2) requires that any request for review of a refusal to accord an application a filing date be made by way of a petition accompanied by the fee set forth in 37 C.F.R. §1.17*>(f)< (see MPEP §506.02). (Emphasis supplied.)

***

Thus, the instant provisional application may not be amended.

Petitioner may file a new provisional application.

CONCLUSION

Petitioner failed to provide a evidence of Office receipt of drawing FIG. 3 described in the specification on deposit of the application, and further improvidently sought to amend a provisional application in a manner not permitted

Accordingly, the petition is **dismissed**; the petition fee will not be refunded because there is no showing that the Notice of 20 August, 2008, was mailed in error.

The application is released to OPAP for further processing consistent with this decision and with a filing date for the application of 7 August, 2008, without drawing FIG. 3 described in the specification.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

---

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

§1.2 Business to be transacted in writing.

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

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JAN 06 2010

OFFICE OF PETITIONS

NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

In re Application of :
Jennifer Riggs-Sauthier, et al. :
Application No. 61/087,826 : NOTICE
Filed: August 11, 2008 :
Attorney Docket No. SJE0204.PRO :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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OCT 0 1 2009

OFFICE OF PETITIONS

JERRY L. NICHOLS, JR.
CHRIS HUDSON
3131 DICKENSON ROAD
ASHTABULA OH 44004

In re Application of :
Jerry L. Nichols, Jr., et al :
Application No. 61/088,166 : ON PETITION
Filed: August 12, 2008 :
Attorney Docket No. 61/088,166 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice To file Missing Parts mailed October 20, 2008, and the Notices mailed November 20, 2008 and December 9, 2008.

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

As to item (1): the cover sheet submitted with the instant petition is not in compliance with 37 CFR 1.51(c)(1). Items (i) and (vii) were not provided on the cover sheet.

As to item (3): the statement is not proper because only one inventor signed. Petitioner is encouraged to note the below:

37 CFR 1.33(b), which states.

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

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

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APR 26 2010

OFFICE OF PETITIONS

Cosmic Descent, LLC.
29 Belmont Ave
Enfield CT 06082

In re Application of	:	
Les Okrasa	:	
Application No. 61/090,101	:	DECISION ON TWO PETITIONS
Filing Date: August 19, 2008	:	PURSUANT TO
Title: METHOD OF HOSTING	:	37 C.F.R. §§ 1.181 AND 1.183
CONFERENCE DUE TO	:	
SYNCHRONIZATION	:	

Background

This is a decision on the petition filed on February 9, 2010, pursuant to 37 C.F.R. §§ 1.181 and 1.183, requesting to "revive abandonment status of provisional application #61/090,101 and convert that provisional application to that of a non-provisional application." It is noted that Petitioner has not indicated which Rule it is that he would have the Office waive.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed September 2, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 3, 2008. A notice of abandonment was mailed on May 8, 2009.

Applicable Rules

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

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

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

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

37 C.F.R. § 1.183 sets forth, *in toto*:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 C.F.R. § 10.18(a) sets forth, *in toto*:

For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter (emphasis added).

Analysis

Since these petitions have been submitted without a signature, the submission cannot be processed. For this reason, the two petitions pursuant to 37 C.F.R. § 1.181 and 1.183 are both **DISMISSED**.

Conclusion

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

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED**.

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, 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, and **extensions of time under 37 C.F.R. § 1.136(a) are not**

permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[5]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300 - please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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SEP 19 2008

OFFICE OF PETITIONS

BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

In re Application of :
Vern Fleming : DECISION ON PETITION
Application No. 61/090,250 :
Deposited: August 20, 2008 :
Title: Method and Device for :
Detecting an Unexpected :
Disconnection of Connectors in a :
Circuit Carrying Electrical Current :

This is a decision on the "Petition Regarding Filing Date of Provisional Application" filed September 4, 2008, requesting that the above-identified provisional application be accorded a filing date of August 20, 2008.

The application was deposited on August 20, 2008. However, on August 29, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, on September 4, 2008, the present petition was filed. Petitioner states that the description of the invention is enabling; thus drawings are not necessary for an understanding of the claimed subject matter. Therefore, the application should be accorded the August 20, 2008 filing date.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence). The above application contains some disclosure of a method.

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.

The petition is **granted to the extent indicated**. The petition fee will be refunded.

Petitioner is also reminded, the filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application. See 35 U.S.C. 111(b)(4) and 37 C.F.R. 1.53(c). Thus, in a provisional application, petitioner does not have the option of amending the application to include figures on the basis that those figures do not constitute new matter. As such only the application papers filed on August 20, 2008 will be considered part of the application.

The application will be referred to the Office of Patent Application Processing for further processing with only the papers present on filing and is hereby accorded a filing date of **August 20, 2008**, without drawings as part of the original disclosure

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Patrick Byrne, et al. :
Application No. 61/090,366 :
Filed: August 20, 2008 :
Attorney Docket No. 0647471.000175 :

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) filed January 22, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Bracewell & Giuliani, LLP 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. Further the request cannot be processed because there is no oath or declaration or application data sheet that lists the applicant's mailing address.

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 undersigned at 571-272-1642.

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

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MARJAMA MULDOON BLASIAK & SULLIVAN LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE, NY 13202

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OFFICE OF PETITIONS

In re Application of	:	
Matthew Mario Iudice, Jr.	:	
Application No. 61/090,405	:	DECISION ON PETITION
Filed: August 20, 2008	:	TO WITHDRAW
Attorney Docket No. 1480-002 Pro 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 April 20, 2009.

The request is **APPROVED**.

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

The request was signed by George S. Blasiak 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 Matthew Mario Iudice, Jr. 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: **Matthew Mario Iudice, Jr.**
2850 Seagrave Way
Marietta, GA 30066

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/090,405	08/20/2008	Matthew Mario Iudice JR.	1480-002 Pro 1

CONFIRMATION NO. 7737

POWER OF ATTORNEY NOTICE

20874
MARJAMA MULDOON BLASIAK & SULLIVAN LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE, NY 13202

OC000000036328991

Date Mailed: 06/05/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2009.

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

/tswilliams/

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

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CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS TX 75234

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
McGinity et al. :
Application Number: 61/090439 : ON PETITION
Filed: August 20, 2008 :
Attorney Docket Number: :
UTAU:1217P1 :

This is a decision on the petition filed on December 15, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of August 20, 2008.

The petition is **GRANTED**.

The application was filed on August 20, 2008, without drawings. Accordingly, on October 15, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on December 15, 2008, the subject petition was filed, accompanied by three (3) sheets of drawings. Petitioner states that the application, including the three (3) drawing sheets, should be accorded a filing date of August 20, 2008, because the drawings, in essence, contain no new matter. Alternatively, petitioner asserts that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

A review of the record reveals that the application papers deposited on August 20, 2008, contain at least one method claim. Accordingly, the application is treated as a provisional application containing at least some disclosure of a process or method.

Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on October 15, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of October 15, 2008, without drawings as a part of the original disclosure. No petition fee is due.

The petition fee will be refunded to petitioners.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to August 20, 2008, and for an indication in Office records that no (0) drawings were present on filing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E.
SUITE 5200
ATLANTA GA 30308-2216

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Trey Vanderpool :
Application No. 61/090,534 : DECISION ON PETITION
Filed: August 20, 2008 :
Attorney Docket No. WALMART12PRV :

This is a decision on the petition under 37 CFR 1.182, filed, April 26, 2009, to change the name of inventor "Taylor Vanderpool" to –Trey Vanderpool --.

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.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to JoAnne Burke at (571) 272-4584.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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
61/090,534	08/20/2008		210	WALMART12PRV		

CONFIRMATION NO. 8259

CORRECTED FILING RECEIPT

6980
TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E.
SUITE 5200
ATLANTA, GA 30308-2216

Date Mailed: 05/04/2009

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Trey Vanderpool, BENTONVILLE, AR;

Power of Attorney:
James Yancey Jr--53809

If Required, Foreign Filing License Granted: 08/28/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/090,534**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
Title

Database Auto Restart Facility (ARF) Systems & Methods

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
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

COPY MAILED

NOV 20 2008

OFFICE OF PETITIONS

In re Application of :
Kai Kroll :
Application No. 61/090,600 : ON PETITION
Filed: August 20, 2008 :
Attorney Docket No. 190419/US :

This is a decision on the petition filed November 3, 2008, requesting that the above-identified application be accorded a filing date of August 20, 2008, in response to the Notice of Omitted Items mailed September 3, 2008. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

On August 20, 2008, the application was filed. On September 3, 2008, the Office of Data Management mailed a Notice of Omitted Items in a Provisional Application stating that the application had been accorded a filing date of August 20, 2008, but that Figures 44V-44SS described in the specification appeared to have been omitted.

In response, petitioners concede that Figures 44V-44SS were in fact omitted from the application as filed, but request that the application, including Figures 44V-44SS, be accorded a filing date of August 20, 2008.

As Figures 44V-44SS were not filed with the application, and since this was all due to applicant's filing error, the Notice of Omitted Items correctly stated that Figures 44V-44SS appeared to have been omitted.

Petitioners are advised that for provisional applications, the option to take the later filing date, *i.e.*, the date of submission of the omitted page(s) or drawing(s), is not

available.[1] As such, if petitioners desire to have Figures 44V-44SS considered as part of the application, petitioners should simply file a new completed provisional application, including Figures 44V-44SS.

In view of the above, the petition fee is non-refundable.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of August 20, 2008, using the application papers filed on that date. The drawings filed with the petition will not be used and will not be added to the drawings filed with the application on August 20, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 601.01(d). In view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of submission in provisional applications. The applicant should simply file a new completed provisional application. Id.

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CHARLES POLANCO
2715 CIRCA DR.
MATTHEWS NC 28105

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Charles POLANCO	:	
Application No. 61/090,635	:	DECISION ON PETITION
Filed: August 21, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition, filed June 24, 2009 and resubmitted July 29, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to the Office action of September 26, 2008, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before November 26, 2008.

Petitioner states that a timely reply was mailed on April 13, 2009. Petitioner has submitted a copy of the USPS Return Receipt, which bears a Received date of April 13, 2009 in the USPTO Mail Center.

Petition did not include the following items:

a copy of the previously mailed correspondence,
a statement which attest personal knowledge of the mailing; and
a properly signed petition.

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 does not satisfy the above requirements of 37 CFR 1.8(b).

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

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

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

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

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

Thurman K. Page
Petition Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

21 OCT 2009

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

In re Application of	:	
Rosa et al	:	DECISION ON
Application No.: 61/090,711	:	
PCT Application No.: PCT/US2009/54591	:	
Filing Date: 21 August 2008	:	PETITION UNDER
Attorney's Docket No.: NA	:	
For: DISPLAY ASSEMBLY WITH AN	:	
INTERFACE LAYER	:	37 CFR 1.48(d)

This response is to the "REQUEST TO CORRECT ... DECEPTIVE INTENT" submitted on 05 August 2009.

BACKGROUND

On 21 August 2008, applicant filed provisional application 61/090,711. The Provisional Application for Patent Cover Sheet only listed Stephen P. Rosa as an inventor.

On 05 August 2009, applicant filed a Request under 37 CFR 1.48(d) to add co-inventor Brian E. Hoffman to the above-reference provisional application.

DISCUSSION

A submission under 37 CFR 1.48(d) (*Provisional application—adding omitted inventors.*) must include:

(1) A request, signed by a party set forth in §1.33(b), to correct the inventorship that identifies the inventor or inventors being added and states that the inventorship error occurred without deceptive intention on the part of the omitted inventor or inventors;

And

(2) The processing fee set forth in § 1.17(q).

The statement of lack of deceptive intent may be included in the request and may be signed by a registered attorney or agent. A statement of lack of deceptive intent is not required from any of the original or to be added inventors.

A review of the application file reveals that applicants have satisfied items (1) - (2) under 37 CFR 1.48(d).

With respect to item (1), the statement submitted to add Brian E. Hoffman is sufficient because the statements states that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $50.00 under 37 CFR 1.17(q) has been provided by credit card.

CONCLUSION

For the reasons above, the request under 37 CFR 1.48(d) is **GRANTED.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/091,385	08/23/2008	Les Okrasa	

CONFIRMATION NO. 1985

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **08/20/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/091,388	08/24/2008	Les Okrasa	

CONFIRMATION NO. 1991

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **08/20/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/091,414	08/24/2008	Les Okrasa	

CONFIRMATION NO. 2059

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **08/20/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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WWW.USPTO.GOV

Paper No.

Cosmic Descent, LLC.
29 Belmont Ave
Enfield CT 06082

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Les Okrasa	:	
Application No. 61/091,534	:	DECISION ON PETITION
Filed: August 25, 2008	:	PURSUANT TO
Title: SIMULTANEOUS	:	37 C.F.R. § 1.181(A)
OCCURENCE(S) OF VARIOUS	:	
CONDITIONS	:	

This is a decision on the petition filed February 16, 2010, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts, mailed September 5, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 6, 2008. A notice of abandonment was mailed on May 12, 2009.

37 C.F.R. § 10.18(a) sets forth, *in toto*:

> For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

This petition has been reviewed by the undersigned, and it is noted that **it has not been executed**. Consequently, this

petition cannot be entered, pursuant to Rule 10.18(a), reproduced above.[1]

Since this petition has not been signed, this petition cannot be treated on the merits.

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, 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, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See also 37 C.F.R. § 1.4 and MPEP § 502.02.
2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of Kenney :
Application No. 61/091,613 : Decision on Petition
Filing Date: August 25, 2008 :
Attorney Docket No. 27650-00002-US :

This is a response to the petition under 37 CFR 1.183 filed August 29, 2008.

The petition is **dismissed**.

Facts:

As of August 15, 2008, Attorney Jeffrey Howell had not received a Digital Certificate from the Office despite past attempts to obtain the Digital Certificate. As a result, Attorney Howell could not electronically file items, including applications, with the Office.

The petition states,

> Unable to follow the normal firm practice of filing via Private E-Filing and due to the urgency of obtaining the filing date for the Provisional Application, the undersigned filed the attached provisional application via facsimile on August 15, 2008.

The "Auto-Reply Facsimile Transmission" provided by petitioner indicates the application was sent by facsimile transmission at 6:53pm on Friday, August 15, 2008.

The petition says an Office employee verified the Office received the facsimile transmission.

On August 25, 2008, petitioner received a letter from the Office informing petitioner the application papers transmitted by facsimile on August 15, 2008, were not entitled to a filing date. The letter appears to have been accompanied by a copy of all the papers the Office received on August 15, 2008.

Petitioner electronically filed a copy of the application on August 25, 2008, and the electronically filed application was accorded a filing date of August 25, 2008.

Petitioner requests waiver of 37 CFR 1.8(a)(2)(i)(A) and that the application be accorded a filing date of August 15, 2008.

Regulations and the MPEP:

37 CFR 1.6(d) states,

> Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations: ...
>
> (3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i)(A) through (D) and (F), and § 1.8(a)(2)(iii)(A), except ... continued prosecution application[s].

37 CFR 1.8(a)(2) states,

> [N]o benefit will be given to a Certificate of Mailing or Transmission [for]: ... [Section (i)(A)] The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining a filing date....

MPEP 502.01 states,

> Senders are cautioned against submitting correspondence by facsimile transmission which is not permitted under 37 CFR 1.6(d) since such correspondence will not be accorded a receipt date.

MPEP 511

> New applications cannot be transmitted by facsimile and are not entitled to the benefit of a Certificate of Transmission under 37 CFR 1.8.

37 CFR 1.183 states,

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed.

Discussion:

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate the existence of an extraordinary situation where justice requires waiver of one or more federal regulations. It is the responsibility of the Commissioner to determine the definitions of the terms "extraordinary" and "as justice requires" as the terms are used in 37 CFR 1.183.[1]

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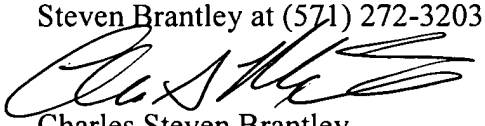
[1] See Bowles, Price Administrator v. Seminole Rock & Sand Co., 325 U.S. 410, 413-414, 89 L. Ed. 1700, 1702, 65 S. Ct. 1215, 1217 (1945) ("Since this involves the interpretation of an administrative regulation a court must necessarily look to the

In the instant case, petitioner indicates an urgent need existed for a filing date of August 15, 2008. However, petitioner fails to provide any reasons such a filing date could not have been obtained by filing the application in compliance with 37 CFR 1.10. The petition fails to assert no United States Post Offices were open as of the time the application was sent by facsimile transmission. The failure to mail the application in compliance with 37 CFR 1.10 appears to have been the result of a failure by the attorney to recognize the option existed. The Office does not consider a situation arising from an attorney's lack of knowledge of a regulation or an inadvertent failure to comply with a regulation to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183.[2]

Petitioner bears the burden of proof. In this case, the record fails to prove the existence of an extraordinary situation for which justice requires waiver of a rule.

The Office of Patent Application Processing will be informed of the instant decision and will process the application with a filing date of August 25, 2008, using the papers received on August 25, 2008.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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administrative construction of the regulation if the meaning of the words used is in doubt. . . . [T]he ultimate criterion is the administrative interpretation, which becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation.")

[2] See Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Vincent v. Mossinghoff, 230 USPQ 621 (D.D.C. 1985) (Misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); In re Chicago Historical Antique Automobile Museum, Inc., 197 USPQ 289 (Comm'r Pats. 1978) (Since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation); and Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce Express Mail customer receipt or any other evidence that application was actually deposited with USPS as Express Mail), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996);

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PO DRAWER 2426
COLUMBIA SC 29202-2426

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Shawn Regan :
Application No. 61,091,749 : ON PETITION
Filed: August 26, 2008 :
Attorney Docket No.: 32246-20 :
Title: Low Profile, Safety
Corkscrew Electrode

This is a decision on the petition filed September 12, 2008, requesting in effect, the "Notice of Omitted Item(s) in a Provisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of August 26, 2008 including figures 1 and 7.

The petition is **Dismissed**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be forwarded to the Office of Patent Application Processing with the presently accorded filing date of August 26, 2008.

On August 26, 2008, the original application papers in the above-identified application were filed via the electronic filing system (EFS). However, on September 9, 2008, the Office of Patent Application Processing mailed a Notice stating that the application had been accorded a filing date of August 26, 2008 but figures 1 and 7 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 1 and 7 as described in the specification were filed on August 26, 2008. The petition is further accompanied by a copy of figures 1 and 7.

The arguments and evidence supplied with the petition have been carefully considered, but are not found to be persuasive. A

second review of the original application papers as filed electronically reveals that figures 1 and 7 were not amongst the papers submitted to the Office on August 26, 2008.

As such figures 1 and 7 were not filed on August 26, 2008 and a filing date of August 26, 2008 including figures 1 and 7 cannot be granted.

Accordingly, the "Notice of Omitted Parts" mailed September 9, 2008 was proper.

Petitioner is reminded the filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application. See 35 U.S.C. 111(b)(4) and 37 C.F.R. 1.53(c). Thus, in a provisional application, petitioner does not have the option of amending the application to include figures on the basis that those figures do not constitute new matter.

Furthermore, with regard to omitted figures in provisional applications, MPEP 601.01(d) specifically provides that:

> The submission of omitted page(s) or drawing(s) in a nonprovisional application and acceptance of the date of such submission as the application filing date is tantamount to simply filing a new application. Thus, applicants should consider filing a new application as an alternative to submitting a petition under 37 C.F.R. 1.182 (with the petition fee under 37 C.F.R. 1.17(h)) with any omitted page(s) or drawing(s), which is a cost effective alternative in instances in which a nonprovisional application is deposited without filing fees. Likewise, in view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 C.F.R. 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application.

Thus, it is concluded that applicant does not have the option of amending this provisional application to include the inadvertently omitted figures nor can applicant submit the omitted figures and accept a later filing date.

The petition is dismissed. The petition fee will not be refunded as the petition was necessitated by the condition of the application on filing.

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

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

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

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

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Shawn V. Regan :
Application No. 61/091,749 :
Filed: August 26, 2008 :
Attorney Dkt. No. 32246-20 :

ON PETITION

This is a decision on the petition, filed July 22, 2009 which is being treated as a petition under 37 CFR 1.181 (no fee required), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On August 26, 2008, the original application papers in the above-identified application were filed via the electronic filing system (EFS). However, on September 9, 2008, the Office of Patent Application Processing mailed a Notice stating that the application had been accorded a filing date of August 26, 2008 but figures 1 and 7 as described in the specification appeared to have been omitted. A petition seeking entry of figures 1 and 7 maintaining the filing date of August 26, 2008 was filed on September 12, 2008. The petition was dismissed on March 9, 2009. A Notice of Abandonment was mailed on July 7, 2009.

Petitioner contends that the application was improperly held abandoned for failure to respond to the petition decision. Petitioner argues that a reply to the petition decision did not require a response.

A review of the record shows that a reply to the petition decision was not required as a filing date was accorded and petitioners request for entry of figures 1 and 7 was dismissed.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner is reminded subject to the provisions of 35 U.S.C. 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances. As such, the instant provisional application expired on August 27, 2009.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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Bola Asiyanbola
265
2809 Boston Street
Baltimore MD 21224

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JAN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Bolanle Asiyanbola	:	
Application No.: 61/091880	:	DECISION ON
Filing or 371(c) Date: 08/26/2008	:	PETITION
Title of Invention:	:	
SELF CLEANING UNIT FOR THE	:	
DECONTAMINATION OF SMALL	:	
INSTRUMENTS	:	

This is a decision in response to the correspondence filed November 16, 2009, wherein Petitioner asserts that that she did not receive the Notice to File Missing Parts of Provisional Application, mailed August 29, 2008. The petition is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a).

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Provisional Application ("Notice"), mailed August 29, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 30, 2008. A Notice of Abandonment was mailed May 6, 2009.

The present petition

Petitioner files the present petition and asserts that that she did not receive the Notice, and that the Notice was sent to the wrong address. In support of this assertion, Petitioner includes a statement from Petitioner that she did not receive the Notice, and "[a] copy of the docket record where the non-received [Notice] is attached and referenced in practitioner's statement." Petition at p.1.

Review of Office records

A review of Office records reveals that the application papers filed on August 28, 2006, did not include a correspondence address. 37 CFR 1.33(a) states "When filing an application, a correspondence address must be set forth in either an application data sheet (§1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing."

In this instance, Office records reveal that the application papers as-filed did not include a correspondence address. Regarding the Electronic Acknowledgment Receipt, when filing through EFS-Web, applicant provided a partial address in an EFS-Web screen, which is identified on the Electronic Acknowledgement Receipt generated by the Office. However, there was no paper identifying the correspondence address that was submitted by applicant with the application filing. The Office did not "mail" the notice to file missing parts because there was no correspondence address. The Office generated the notice and placed it in the file since there was no correspondence address.

37 CFR 1.53(g)(2) provides that "If a provisional application which has been accorded a filing date pursuant to paragraph (c) of this section does not include the cover sheet ... and applicant has not provided a correspondence address (§ 1.33(a)), applicant has two months from the filing date of the application within which to pay the basic filing fee, file a cover sheet..., and pay the surcharge...to avoid abandonment."

Conclusion

Applicant has failed to demonstrate that a correspondence address was provided with the application papers as-filed on August 26, 2008, as required by 37 CFR 1.33(a). The petition is therefore dismissed.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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 regarding this decision should be directed to the undersigned at (571) 272-3232.

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

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MAR 23 2009

OFFICE OF PETITIONS

DAVID G. HENRY
418 RIVERVIEW DRIVE
WOODWAY, TX 76712

In re Application of Fields et al. :
Application No. 61/092,012 : Decision on Petition
Filing Date: August 26, 2008 :
Attorney Docket No. AFS MIN FORT 08 :

This is a decision on petition filed October 29, 2008, requesting that the instant provisional application be accorded a filing date of August 26, 2008, without drawings.

The petition is **granted**.

On August 26, 2008, the application was filed.

The specification filed on August 26, 2008, referenced drawing figures but no drawings were filed on August 26, 2008.

On September 5, 2008, the Office mailed a Notice was mailed stating that the application was filed without drawings. The Notice stated a filing date had not been accorded and the filing date would be the date of receipt of drawings.

It is the practice of the PTO to treat a provisional application that contains at least some disclosure directed to a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) 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)....
>
> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains some disclosure directed to a process or method. Therefore, the application will be accorded a filing date of August 26, 2008. Per 601.01(g), a Notice of Omitted Items rather than a Notice of Incomplete Application should have been mailed. The Notice of Omitted Items would have informed petitioner a filing date had been accorded and that the drawing figures referred to in the specification appeared to be missing.

In view of the above, the "Notice" mailed September 5, 2008, was mailed in error and is hereby withdrawn.

The application will be accorded the August 26, 2008, filing date without drawings as requested in the petition.

It should be noted that the claims filed in any subsequent non-provisional application will determine whether or not drawings are necessary for that application since the "subject matter sought to be patented" is determined by the claims in an application. Therefore, the instant decision should not be construed as a determination that drawings will or will not be necessary for a filing date for any future non-provisional applications.

The petition fee has been credited to petitioner's deposit account.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 26, 2008, and for indication in USPTO records that "0" sheets of drawings were present on filing.

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

cc: Patton Boggs LLP
Suite 3000
2001 Ross Avenue
Dallas, TX 75201

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OFFICE OF PETITIONS

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

In re Application of :
Christopher L. Morris, et al. :
Application No.: 61/092,372 : ON PETITION
Filed: August 27, 2008 :
Attorney Docket No. 23309-0017P01 :

This is a decision on the petition under 37 CFR 1.182, filed August 26, 2009, to correct the name of joint inventor "Andrew M. Green" to – Jesse Andrew Green --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's name correction. A corrected Filing Receipt, which correctly reflects the inventor's name, 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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
61/092,372	08/27/2008		210	23309-0017P01		

CONFIRMATION NO. 6566

CORRECTED FILING RECEIPT

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

OC00000038664781

Date Mailed: 11/09/2009

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. 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)

Christopher L. Morris, Los Alamos, NM;
Larry Joe Schultz, Los Alamos, NM;
Jesse Andrew Green, Los Alamos, NM;
Michael James Sossong, Los Alamos, NM;
Konstantin N. Borozdin, Los Alamos, NM;
Alexei V. Klimenko, Maynard, MA;
Gary Blanpied, Columbia, SC;

Power of Attorney:
Bing Ai--43312

If Required, Foreign Filing License Granted: 09/05/2008
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/092,372**
Projected Publication Date: None, application is not eligible for pre-grant publication
Non-Publication Request: No
Early Publication Request: No
Title

Image Based on Cosmic-Ray Produced Charged Particles

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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SEATTLE WA 98101

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OCT 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Mark J. Stefik et al :
Application No. 61/092,726 : DECISION ON PETITION
Filed: August 28, 2008 :
Attorney Docket No. 20080513-US-PSP :

This is a decision on the request filed September 29, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting refund of the filing fee for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that the instant application was an unintended duplicate filing via EFS-Web.

37 CFR 1.26(a) states, in part: "The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee."

However, the Office may find a mistake pursuant to 37 CFR 1.26, waive the presumption in 37 CFR 1.26 that applications are not entitled to filing fee refunds, and refund the filing fees associated with unintended duplicate application filings via EFS-Web.

The Office has accepted petitioner's statement as an assertion that the duplicate application was filed by mistake. Accordingly, the filing fee of $210.00, submitted on August 28, 2008, has been credited to petitioner's deposit account no. 24-0037.

As no further action will be taken in this application, this matter is being referred to the Office of Patent Publication for express abandonment of the subject application.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Ferrari, et al. :
Filed: August 29, 2008 : ON PETITION
Application No. 61/092,821 :
Dkt. No.: 62980.PV/C-7711.0 :

This is a decision on the "PETITION TO CORRECT FILING DATE," filed January 13, 2009. This matter is being treated under 37 CFR 1.53(e)(2) to accord the above-identified application a filing date of August 29, 2008.

The petition is **GRANTED**.

The application was submitted August 29, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed September 10, 2008. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioner argues that drawings are not necessary for an understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that

drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of August 29, 2008. Thus, the instant petition is **unnecessary** as the instant application is otherwise entitled to a filing date under 37 CFR 1.53(c). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on August 29, 2008, without drawings as part of the original disclosure.

With regard to omitted figures in provisional applications, MPEP 601.01(d) specifically provides that:

> The submission of omitted page(s) or drawing(s) in a nonprovisional application and acceptance of the date of such submission as the application filing date is tantamount to simply filing a new application. Thus, applicants should consider filing a new application as an alternative to submitting a petition under 37 C.F.R. 1.182 (with the petition fee under 37 C.F.R. 1.17(h)) with any omitted page(s) or drawing(s), which is a cost effective alternative in instances in which a nonprovisional application is deposited without filing fees. Likewise, in view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application.

Thus, it is concluded that applicant does not have the option of amending this provisional application to include the inadvertently omitted figures nor can applicant submit the omitted figures and accept a later filing date. Thus, the drawings submitted November 10, 2008 will not be entered into the record.

No fee is due in connection with this matter. A refund of $400.00 will issue in due course.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 29, 2008 using only the papers present on that day and without entry of any drawings into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Adjustment date: 03/23/2009 CKHLOK
01/13/2009 INTEFSW 00007499 122355 61092821
01 FC:1462 400.00 CR

Applicant:	Gary M. Ferrari, et al.
Serial Number:	61/092,821
Filed:	Aug. 29, 2008
Title:	Property Management and Disposition System
Attorney Docket:	62980.PV

PETITION TO CORRECT FILING DATE

Mail Stop Petition
Commissioner for Patents
P.O Box 1450
Alexandria VA 22313-1450

Sir:

In response to the Filing Receipt of November 13, 2008, Applicants petition for correction of the filing date for U.S. Provisional Patent Application No. 61/092,821 from November 10, 2008, to August 29, 2008, in accordance with 37 C.F.R. § 1.53(e)(2). The petition is supported by the file history of the '821 application.

On August 29, 2008, Applicant filed its provisional application directed towards a "Property Management and Disposition System" with the U.S. Patent and Trademark Office. However, while the application was filed with a specification, two drawing pages referred to in the specification were inadvertently omitted. On September 10, 2008, Applicants were mailed a Notice of Incomplete Provisional Application because the application was filed without the drawings that were referred to in the specification. In response to the notice, Applicants submitted two drawing pages on November 10, 2008. Subsequently, in a filing receipt mailed on November 13, 2008, Applicants were improperly accorded a filing date of Nov. 10, 2008 instead of the original application filing date of August 29, 2008.

While the figures of the drawing pages submitted on November 10 were referred to in the specification of the application, the drawings were ***not*** "necessary for the understanding of the subject matter to be patented" under 35 U.S.C. 113 (first sentence). Under M.P.E.P. 608.02(I), "[t]he first sentence of 35 U.S.C. 113 requires a drawing *to be*

submitted upon filing where such drawing is necessary for the understanding of the invention." The original description of the application discussed in detail the figures later submitted. A person of ordinary skill in the art can fully understand Applicant's invention by review of the application as originally submitted, without the drawings. Additionally, the claims filed with the August 29, 2008, application were fully supported by the specification filed therewith. Accordingly, the drawings were not necessary to understand the invention.

Also, in handling of the drawing requirements under the first sentence of 35 U.S.C. 113, the "formality examiner should not treat an application without drawings as incomplete if drawings are not required." M.P.E.P. 608.02(III). In this regard, a drawing is not required for a filing date under 35 U.S.C. 113 if the application contains at least one process claim including the term "method" in its introductory phrase. M.P.E.P. 608.02(III). In the present case, claims 3 and 4 include the term "method" in the introductory phrase. Therefore, the application should have received the August 29, 2008, filing date.

Further, the second sentence of 35 U.S.C. 113 addresses the situation in this case "wherein a drawing is not necessary for the understanding of the invention, but the subject matter sought to be patented admits of illustration and no drawing was submitted on filing." M.P.E.P. 608.02(IV). M.P.E.P. 608.02 then states the following:

> "The lack of drawing in this situation does not render the application incomplete but rather is treated as an informality. A filing date will be accorded with the original presentation of the papers, despite the absence of drawings."

Accordingly, under the second sentence of 35 U.S.C. 113, the application filed without the drawings should not have rendered the application incomplete. Instead, the application should have been accorded the original filing date of August 29, 2008, and simply been asked to forward the missing drawings as an informality.

In conclusion, the application filed without drawings on August 29, 2008, should not have been treated as incomplete because (1) the drawings were not required to understand the invention and (2) claims 3 and 4 of the application were directed to method claims. In light of the foregoing, Applicants submits that the application, as filed

on August 29, 2008, was a complete application and was entitled to a filing date of the same date. The drawings later submitted on November 10, 2008, were not necessary for the understanding of the subject matter to be patented. For these reasons, Applicant respectfully requests correction of the filing date for U.S. Provisional Patent Application No. 61/092,821 from November 10, 2008, to August 29, 2008, in accordance with 37 C.F.R 1.53(e).

The petition fee of $400 is submitted herewith. As the application should be entitled to a filing date of August 29, 2008, Applicants respectfully request a refund of the petition fee. If other fees are required by this petition, such fees may be charged to deposit account 12-2355.

Sincerely,

LUEDEKA, NEELY & GRAHAM, P.C.

By:

Michael J. Bradford
Reg. No. 52,646

January 13, 2009

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request:	03/15/09	2 Serial/Patent #	61/092821

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	ifw	01/13/09	$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND	$ 400.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 2 -- 2 3 5 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

pto error

11 REFUND REQUESTED BY:

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

SIGNATURE: /ALESIA M. BROWN/ PHONE: 23205

OFFICE: OP

****

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO PRU DENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Hartmann, et al :
Filed: August 29, 2008 : ON PETITION
Application No. 61/092,825 :
Dkt. No.: 114.0015 :

This is a decision on the "RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION AND PETITION TO ACCORD FILING DATE TO PROVISIONAL APPLICATION," filed October 2, 2008 to accord the above-identified application a filing date of August 29, 2008.

The petition is **DISMISSED**.

The application was submitted August 29, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed September 11, 2008. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioners argue that drawings are not necessary for an understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all

the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of August 29, 2008. Thus, the instant petition is unnecessary as the instant application is otherwise entitled to a filing date under 37 CFR 1.53(c). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on August 29, 2008, without drawings as part of the original disclosure.

No fee is due in connection with this matter. A refund of $400.00 will issue in due course.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 29, 2008 using only the papers present on that day and without entry of any drawings into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

MAILED
SEP 02 2009
OFFICE OF PETITIONS

In re Application of :
Jason COPE :
Application No. 61/092,863 : DECISION ON PETITION
Filed: August 29, 2008 :
Attorney Docket No. P07843US01-PH1 :
2517P+

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 Provisional Application (Notice), mailed September 25, 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 November 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form a provisional application cover sheet and supplemental fee; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to the Office of Data Management for further processing in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 61092863 Total Records Found: 4

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/24/2009	00000045	1	1085	$810.00	07/23/2009	DA 260084
07/24/2009	00004161	4	1453	$1,620.00	07/23/2009	DA 260084
11/07/2008	00013136	4	8021	$40.00	11/07/2008	DA 260084
08/29/2008	00013819	4	1005	$210.00	08/29/2008	DA 260084

PTO/SB/64 (11-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) P07843US01 - PHI 2517P2

First named inventor: COPE, Jason

Application No.: 61/092,863 Art Unit:

Filed: August 29, 2008 Examiner:

Title: APPARATUS AND METHODS FOR REMOVAL OF SPECIFIC SEED TISSUE OR STRUCTURE FOR SEED ANALYSIS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity - fee $ 1,620.00 (37 CFR 1.17(m)) - Charge to Deposit Account No. 26-0084.

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of RESPONSE TO NOTICE OF MISSING PARTS - FEE (identify type of reply):
☑ has been filed previously on faxed to PTO on 7/23/2009.
☐ is enclosed herewith.
B. The issue fee of $_____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

July 23, 2009
Date

John D. Goodhue
Signature

Telephone Number: 515-288-3667

CUSTOMER NO: 27142

JOHN D. GOODHUE, Reg. No. 47,603
Typed or printed name

801 Grand Avenue, Suite 3200,
Address

Des Moines, IA 50309-2721
Address

Enclosures:
☑ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: RESPONSE NOTICE OF MISSING PARTS (faxed separately)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☑ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306. Electronic transmission through EFS.

July 23, 2009
Date

John D. Goodhue
Signature

JOHN D. GOODHUE
Type or printed name of person signing certificate

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MAR 16 2009

OFFICE OF PETITIONS

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of :
Fit :
Filed: August 29, 2008 : ON PETITION
Application No. 61/093,127 :
Dkt. No.: 2008P14747 US :

This is a decision on the "PETITION FOR REVIEW UNDER 37 CFR 1.53(e)(2)," filed November 25, 2008, to accord the above-identified application a filing date of August 29, 2008.

The petition is **GRANTED**.

The application was submitted August 29, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed September 25, 2008. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioner argues that drawings are not necessary for an understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that

drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of August 29, 2008. Thus, the instant petition is **unnecessary** as the instant application is otherwise entitled to a filing date under 37 CFR 1.53(c). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on August 29, 2008, without drawings as part of the original disclosure.

With regard to omitted figures in provisional applications, MPEP 601.01(d) specifically provides that:

> The submission of omitted page(s) or drawing(s) in a nonprovisional application and acceptance of the date of such submission as the application filing date is tantamount to simply filing a new application. Thus, applicants should consider filing a new application as an alternative to submitting a petition under 37 C.F.R. 1.182 (with the petition fee under 37 C.F.R. 1.17(h)) with any omitted page(s) or drawing(s), which is a cost effective alternative in instances in which a nonprovisional application is deposited without filing fees. Likewise, in view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications, the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application.

Thus, it is concluded that applicant does not have the option of amending this provisional application to include the inadvertently omitted figures nor can applicant submit the omitted figures and accept a later filing date.

No fee is due in connection with this matter. A refund of $400.00 will issue in due course.

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

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 29, 2008 using only the papers present on that day and without entry of any drawings into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: James I. Harlan
Siemans Corp.
5800 Granite Parkway, Ste 600
Plano, Texas 75024

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

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of :
Richard A. HODIN et al. :
Application No. 61/093,129 : DECISION ON PETITION
Filed: August 29, 2008 :
Attorney Docket No. 00786-0670P01 / MGH 3717 :

This is a decision on the petition under 37 CFR 1.53(e) filed November 25, 2008, to accord the original filing date.

The petition is **DIMISSED**.

Petitioner asserts that the Office action mailed September 26, 2008 was issued in error and that the only two figures for this application are two tables. Petitioner also states that because the application was filed as a provisional, applicants did not re-label the two tables as figures.

A review of the specification indicates that the figures were designated by the applicants. Therefore, because of the designation of the two figures drawings are required.

35 U.S.C. 113 Drawings states;

The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Director may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

The filing date will be the date of the submission of the drawings.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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MAR 16 2010

In re Application of	:	
Richard A. HODIN et al.	:	
Application No. 61/093,129	:	DECISION ON PETITION
Filed: August 29, 2008	:	
Attorney Docket No. 00786-0670P01 / MGH 3717	:	

This is a decision on the renewed petition under 37 CFR 1.53(e), filed November 25, 2009, to accord a filing date based on the date of deposit.

Petitioner asserts that no drawings are necessary for the filing of the subject provisional application. A review of the Office records indicates that drawings are needed.

The petitioner has provided the Office with the required drawings; accordingly this application is entitled to a filing date of August 29, 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.

Telephone inquiries relating to this decision should be directed to Michelle R. Eason at (571) 272-4231. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Paper No.

BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO IL 60610

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JAN 15 2009

In re Application of	:	
Blayne A. Roeder et al.	:	DECISION ON PETITION
Application No. 61/093,172	:	PURSUANT TO
Filed: August 29, 2008	:	37 C.F.R. § 1.182
Attorney Docket No. 12730/00389;PA-6425-PRV	:	
Title: BARBED ANCHORS FOR WIRE STENT	:	

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(C)", filed November 17, 2008, requesting that the above-referenced application be accorded a filing date of August 29, 2008, including Figures 8a and 8b. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.182.

This petition pursuant to 37 C.F.R. § 1.182 is **DISMISSED**. This application will retain a filing date of August 29, 2008, however Figures 8a and 8b will not be entered.

Receipt of the concurrently filed $400 petition fee is acknowledged.

The application was deposited on August 29, 2008. However, on September 25, 2008, the Office of Data Management mailed a

"Notice of Omitted Item(s) in a Provisional Application" (notice), stating that the application had been accorded a filing date, and advising Applicants that Figures 8a and 8b appeared to have been omitted on filing. The notice set a two-month period for reply.

In response, on November 17, 2008, Applicants filed this petition. The petition is further accompanied by a copy of Figures 8a and 8b, and an indication that these two figures were "omitted in error."[1]

The notice set forth two options for Applicants. The first option indicated that if the Applicants wished to contend that the missing figures were present at the time of filing, a petition would need to be filed. The second option indicated that any failure to file a petition within two months of the mailing of the notice would be considered as a constructive acceptance of the application as deposited.

With this petition, Applicants have attempted to introduce two figures that were not present on filing. This cannot be done, for these figures can be entered only be amendment,[2, 3] and provisional applications cannot be amended.[4]

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing (OPAP) for further processing in due course. This application will retain a filing date of August 29, 2008. Figures 8a and 8b will not be entered. The general phone number for OPAP is 571-272-4000.

OPAP will note that **there is no need for Applicants to provide a response to this decision.**

---

[1] Petition, page 1.
[2] 37 C.F.R. §§ 1.121(a) and (d).
[3] The electronic file does not contain an amendment directing the entry of these two drawings.
[4] See 37 C.F.R. § 1.53(c). See also M.P.E.P. § 601.01(b).

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[5] Applicants 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, Applicants are reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Applicants.

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
DRW oct-08

JEFFREY M. JACKSON
445 N. 5TH STREET
PHOENIX AZ 85004

COPY MAILED

OCT 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Huentelman et al.	:	
Application Number: 61/093179	:	ON PETITION
Filed: 08/29/2008	:	
Attorney Docket Number: 050922-16-4	:	

This is a decision on the petition filed on October 1, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of August 29, 2008.

The petition is **GRANTED**.

The application was filed on August 29, 2008, without drawings. Accordingly, on September 25, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on October 1, 2008, the subject petition was filed. Petitioners assert, *inter alia*, that drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a

> drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

A review of the record reveals that the application papers deposited on August 29, 2008, contain at least one method claim. Accordingly, the application is treated as a provisional application containing at least some disclosure of a process or method.

Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on September 25, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of August 29, 2008, without drawings as a part of the original disclosure.

As no petition fee is due, the fee paid with the subject petition will be refunded to petitioners.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to August 29, 2008, and for an indication in Office records that no (0) drawings were present on filing.

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

DWood

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

Paper No.

D. Kligler I.P. Services LTD
P.O. Box 25
Zippori 17910
ISRAEL

COPY MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Application of :
Sommer et al. :
Application No. 61/093,366 : DECISION ON PETITION
Filed: September 1, 2008 : PURSUANT TO
Attorney Docket No.: 1007-1055 : 37 C.F.R. § 1.137(B)
Title: MODIFIED ERASE VERIFY :
PROCEDURE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed June 1, 2009, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed September 10, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 11, 2008. A notice of abandonment was mailed on May 14, 2009.

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

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

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

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

With this petition, Petitioner has submitted the petition fee, a provisional application cover sheet along with the surcharge that is associated with the late submission of the same, and the proper statement of unintentional delay.

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

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

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

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

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.

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

1 See Rule 1.137(d).

discussion may be controlling or considered authority for any further action(s) of Petitioner.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Daniel Kligler
P.O. Box 33111
Tel Aviv, 61330
ISRAEL

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

KOKKA & BACKUS, PC
200 PAGE MILL ROAD, SUITE 103
PALO ALTO, CA 94306

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AUG 11 2009

OFFICE OF PETITIONS

In re Application of :
Bruce YOUNG, et al. :
Application No. 61/093,683 : DECISION ON PETITION TO
Filed: September 2, 2008 : WITHDRAW FROM RECORD
Attorney Docket No. **RIN-012P** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2009.

The request is **APPROVED.**

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

The request was signed by Kenneth Backus, the sole attorney of record. Kenneth Backus 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 assignee of the entire interest at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning the status or examination of this application should be directed to the Office of Patent Application Processing at 571-272-4100

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

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

cc: **RINGCENTRAL, INC.**
999 BAKER WAY, SUITE 500
SAN MATEO, CA 94404

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/094,047	09/03/2008	Les Okrasa	

CONFIRMATION NO. 4031

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/16/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/02/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

In re Application of :
Anthony Andrew Poliak :
Application No. 61/094,237 : DECISION ON PETITION
Filed: September 4, 2008 : TO WITHDRAW
Attorney Docket No. 0492479-0095 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 10, 2009.

The request is **APPROVED**.

The request was signed by Brenda Herschbach Jarrell on behalf of all attorneys of record who are associated with customer No. 24280.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Steven Marc Zeitels
100 Bellevue Street
Newton, MA 02458

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of
David J. Gerber et al.
Application No. 61/094,358
Filed: September 4, 2008
Attorney Docket No. 2005781-0005

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Brenda Herschbach Jarrell on behalf of attorney/agents associated with customer number 24280. All attorneys/agents associated with customer number 24280 have been withdrawn.

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

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/094,358	09/04/2008	David J. Gerber	2005781-0005

CONFIRMATION NO. 5488

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 07/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

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

/kainabinet/

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

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of :
David J. Gerber et al. :
Application No. 61/094,360 : DECISION ON PETITION
Filed: September 4, 2008 : TO WITHDRAW
Attorney Docket No. 2005781-0007 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Brenda Herschbach Jarrell on behalf of attorney/agents associated with customer number 24280. All attorneys/agents associated with customer number 24280 have been withdrawn.

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

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/094,360	09/04/2008	David J. Gerber	2005781-0007

CONFIRMATION NO. 5495

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

OC000000036784536

Date Mailed: 07/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

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

/kainabinet/

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

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of :
David J. Gerber et al. :
Application No. 61/094,361 : DECISION ON PETITION
Filed: September 4, 2008 : TO WITHDRAW
Attorney Docket No. 2005781-0006 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Brenda Herschbach Jarrell on behalf of attorney/agents associated with customer number 24280. All attorneys/agents associated with customer number 24280 have been withdrawn.

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

There was no request to change the correspondence address. The address of record will remain the same until further notified by the applicant.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/094,361	09/04/2008	David J. Gerber	2005781-0006

CONFIRMATION NO. 5504

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 07/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

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

/kainabinet/

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

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Adam Lilling
OnMeta
#805
1223 Wilshire Blvd
Santa Monica, CA 90403

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of De Lury and Lilling :
Application No. 61/094,410 :
Filing Date: December 18, 2008 :
Attorney Docket No. OnMeta.0010 :

Decision on Petition

This is a decision on the petition filed December 18, 2008, to accord the above-identified application a filing date of September 5, 2008.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53."

Papers deposited on September 5, 2008, included:

(1) 2 pages of Electronic Application Fee Transmittal, and
(2) 8 blank pages.

On October 9, 2008, the Office of Initial Patent Examination mailed a Notice stating neither a specification nor a cover sheet was present and that a filing date had not been accorded. The Notice stated, unless a petition was filed and granted, the filing date would be the date of receipt of a specification.

The instant petition requests the application be accorded a filing date of September 5, 2008, based on an assertion the papers filed on September 5, 2008, included:

(1) 1 page of Cover Sheet,
(2) 1 page of Specification, and
(3) 6 sheets of drawings.

The merits of a petition will not be considered prior to payment of the required petition fee. In this case, the fee of $400 has not been paid.

The merits of a petition will not be considered unless the petition is properly signed. A petition must be signed all the inventors, a registered patent attorney, a registered patent agency, or an

assignee of record. The instant petition is signed by Adam Lilling and states he is CEO of Onmeta, Inc. The petition is not signed by the other inventor and Onmeta, Inc., is not an assignee of record. Therefore, the petition is not properly signed.

If petitioner wishes for the merits of the petition to be considered, petition must file a request for reconsideration and $400. The request for reconsideration must be signed by both inventors or must include a showing in compliance with 37 CFR 3.73(b). A form that can be used to make the required showing under 37 CFR 3.73(b) is attached.

The petition fee of $400 will be refunded if petitioner demonstrates the Office erred in failing to accord the application a filing date of September 5, 2008. However, if the petition does not prove the application is entitled to a filing date of September 5, 2008, the fee will not be refunded.

Since a specification has been filed, the application will be accorded a filing date of December 18, 2008, at this time.

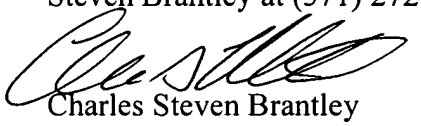
Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

The Office of Patent Application Processing will be informed of the instant decision and will process the application using a filing date of December 18, 2008, using the cover sheet, specification, and drawings filed December 18, 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

Attached: Form PTO/SB/96 ("Statement Under 37 CFR 3.73(b))
Privacy Act Notice

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/094,918	09/07/2008	Les Okrasa	

CONFIRMATION NO. 7795

Cosimc Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/095,361	09/09/2008	Les Okrasa	

CONFIRMATION NO. 9686

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

OCT 07 2009

OFFICE OF PETITIONS

In re Application of :
Peter C. Herdic, et al. :
Application No. 61/095,425 : ON PETITION
Filed: September 9, 2008 :
Attorney Docket No. 98549-US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed by July 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed October 10, 2008. The notice set a two-month period to respond and required (1) a provisional application cover sheet under 37 CFR 1.51(c)(1), or an Application Data Sheet (ADS) identifying either the city and state or city and foreign country of the residence of each inventor and (2) the surcharge as set forth in 37 CFR 1.16(g) of $50. A Notice of Abandonment was mailed on June 19, 2009. On July 22, 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 a provisional application cover sheet and the $50 surcharge; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of October 10, 2008 is accepted as being unintentionally delayed.

Subject to the provisions of 35 U.S.C. § 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRISTOPHER L. ANDERSON
13205 OVERLAND PASS
AUSTIN TX 78738

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Paul Deangelis :
Application No. 61/095,572 :
Filed: September 9, 2008 :
Attorney Docket No. ETI-HEP002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Nonprovisional Application (Notice) mailed October 9, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 10, 2008. The Notice of Abandonment was mailed June 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the basic filing fee ($135) and the surcharge ($25); (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 the undersigned at (571) 272-2991.

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

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/095,627	09/10/2008	Les Okrasa	

CONFIRMATION NO. 1850

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/095,847	09/10/2008	Eduardo SCHIFFRIN	8905-US-Prov1	1961

EXAMINER

7590 11/20/2008

Nestle HealthCare Nutrition
12 Vreeland Road, 2nd Floor, Box 697
Florham Park, NJ 07932

ART UNIT	PAPER NUMBER

NOTIFICATION DATE	DELIVERY MODE
11/20/2008	ELECTRONIC

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is granted.

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

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

Kaletus Buchanan
Patent Publication Branch
Office of Data Management

11/18/2008 KKING1 00000001 504498 61095847

01 FC:1464 130.00 DA

FORM PET650G (Rev. 08/07)

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DNW Jan-09

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
Noterdaeme et al. :
Application Number: 61/096123 :
Filing Date: 09/11/2008 :
Attorney Docket Number: 820908-8021 :

ON PETITION

This is a decision on the petition filed on December 15, 2008, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of September 11, 2008.

The petition is **GRANTED**.

The application was filed on September 11, 2008, without drawings. Accordingly, on October 16, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on December 15, 2008, the subject petition was filed. Petitioner asserts that that the application, as filed, is entitled to a filing date because drawings are not necessary for an understanding of the subject matter sought to be patented.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

> filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

A review of the record reveals that the application papers deposited on September 11, 2008, contain at least one method claim. Accordingly, the application is treated as a provisional application containing at least some disclosure of a process or method.

Drawings will not be further considered as a part of this case.

In view of the above, the Notice of Incomplete Provisional Application mailed on October 16, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of September 11, 2008, without drawings as a part of the original disclosure. No petition fee is due.

The petition fee will be refunded to petitioners.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to September 11, 2008, and for an indication in Office records that no (0) drawings were present on filing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/096,764	09/12/2008	Les Okrasa	

CONFIRMATION NO. 6025

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/096,804	09/14/2008	Les Okrasa	

CONFIRMATION NO. 6089

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/13/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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GORDON D. SHERRER
995 BUCKSKIN WAY
ORLEANS, ONTARIO K1C 2Y7 CA

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Application of :
Gordan D. SHERRER :
Application No. 61/097,231 : DECISION ON PETITION
Filed: September 16, 2008 :
Attorney Docket No. o063nTTivd :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 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 October 10, 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 December 11, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required documents and 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 October 10, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175.00 extension of time fee submitted with the petition on June 19, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE SUITE 250
ALISO VIEJO CA 92656

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Cabrera, et al. :
Application No. 61/097,833 : DECISION ON PETITION
Filed: September 17, 2008 :
Attorney Docket No: NLPFI-002N3

This is a decision on the petition filed February 23, 2009, to accord the above-identified application a filing date of September 17, 2008.

The petition is **GRANTED** to the extent indicated herein.

Application papers in the above-identified application were filed on September 17, 2008, without a specification. Accordingly, on December 22, 2008, the Office of Initial Patent Examination mailed applicants a "Notice of Incomplete Provisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a specification. In response, applicants filed the instant petition.

Petitioner asserts that drawings alone can provide the written description, and requests that the application be accorded a filing date of September 17, 2008.

Petitioner's arguments have been considered, and based on the facts of this case, are found to be persuasive. The provisional application disclosure is accepted for what it shows and is written in the drawings.

Accordingly, the petition is **granted** to the extent that the application will be accorded the September 17, 2008 filing date with no specification as a part of the original disclosure of the application.

However, as the present petition was not due to USPTO error (the Notice was correct in that a specification was missing), the petition fee will not be refunded.

The matter is being forwarded to the Office of Initial Patent Examination for correction of the filing date to September 17, 2008, using the provisional application disclosure filed on that date.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/098,110	09/18/2008	Les Okrasa	

CONFIRMATION NO. 1884

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/13/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Frank R Naypaver
351 Florine Ave
Leavittsburg OH 44430

MAILED

AUG 28 2009

OFFICE OF PETITIONS

In re Application of
Frank R. Naypaver, et al.
Application No. 61/098,407
Filed: September 19, 2008

DECISION ON PETITION

This is a decision on the petition filed July 20, 2009 to revive the above identified application.

The petition is **dismissed**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 16 2009

OFFICE OF PETITIONS

Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of :
Zimmermann, et al :
Filed: September 19, 2008 : ON PETITION
Application No. 61/098,621 :
Dkt. No.: FLUDP002P2 :

This is a decision on the "PETITION TO ACCORD FILING DATE UNDER 37 C.F.R. 1.153(e) IN RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION," December 3, 2008. This matter is being treated as a petition pursuant to 37 CFR 1.53(e)(2) to accord the above-identified application a filing date of September 19, 2008.

The petition is **GRANTED**.

The application was submitted August 29, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed September 11, 2008. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioners argue that drawings are not necessary for an understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that

can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of September 19, 2008. Thus, the instant petition is **unnecessary** as the instant application is otherwise entitled to a filing date under 37 CFR 1.53(c). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on September 19, 2008, without drawings as part of the original disclosure.

No fee is due in connection with this matter. A refund of $400.00 will issue in due course.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of September 19, 2008 using only the papers present on that day and without entry of any drawings into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SPECKMAN LAW GROUP PLLC
1201 THIRD AVENUE, SUITE 330
SEATTLE WA 98101

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DEC 12 2008

OFFICE OF PETITIONS

In re Application of :
Robert C. A. Frederickson :
Application No. 61/098,706 : DECISION GRANTING PETITION
Filed: September 19, 2008 :
Attorney Docket No. **12500.2009P** :

This is a decision on the petition filed December 4, 2008, requesting that the above-identified provisional application be accorded a filing date of September 19, 2008. The petition is being treated under 37 CFR 1.53

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

The application was filed on September 19, 2008, without drawings. Accordingly, on October 17, 2008, the Office of Data Management mailed a "Notice of Incomplete Provisional Application" stating that the application had been deposited without drawings.

The present petition argues that drawings are not necessary for an understanding of the subject matter sought to be patented, and requests that the application be accorded a filing date of September 19, 2008.

Based on petitioners argument, this application will be accorded a filing date of September 19, 2008. Petitioner is advised, however, that this decision does not constitute a determination in accordance with 35 U.S.C. § 113 (first sentence). However, the "Notice" was correct in stating that the application appeared to have been incomplete. Thus, the petition fee in the amount of $400.00 has been charged to petitioner's deposit account.

The application will be processed for filing date purposes using the application papers present on September 19, 2008.

Petitioner is reminded that no amendment/corrections, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to a provisional application after the filing date of the provisional application. See 37 CFR 1.53(c); 37 CFR 1.121(j). As such, if petitioners desire to have

drawings included, petitioners should file a new completed provisional application.

This matter is being referred to the Office of Patent Application Processing for processing with a filing date of September 19, 2008, using only the application papers filed on that date, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/098,771	09/21/2008	Les Okrasa	

CONFIRMATION NO. 4566

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/13/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(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 NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/098,797	09/22/2008	Les Okrasa	

CONFIRMATION NO. 4649

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 10/15/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/13/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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YAAKOV B. BREZEL
8 KEDUSHAT AHARON ST.
JERUSALEM 94478
ISRAEL

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of
Israel Wagshul et al.
Application No. 61/099,214
Filed: September 23, 2008
Attorney Docket Number: 125p5

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 29, 2009, to revive the above identified application.

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

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

This application became abandoned for failure to timely respond to the Notice to File Missing Parts mailed October 3, 2008. Accordingly, a Notice of Abandonment was mailed June 11, 2009.

Pursuant to 37 CFR 1.137(b) however, the instant petition lacks item (1) of the regulation.

The Notice mailed October 3, 2008 required the submission of the statutory basic filing fee in the amount of $105.00 plus the late filing surcharge in the amount of $25.00. Effective

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

October 2, 2008 however, the filing fee for a provisional application was actually set at $110.00 not, $105.00. As a result, the credit card authorization was insufficient by $5.00, and since no authorization was given for debiting a deposit account, a proper reply to the Notice to File Missing Parts has not been filed.

In view of the above, the application will remain in an abandoned status until such time as the balance of the filing fees in the amount of $5.00 has been paid, in compliance with the Notice to File Missing Parts.

Petitioners are cautioned to verify the currect fees due prior to paying the fees with a renewed petition. Petitioners are also advised that if a renewed petition is filed, no additional petition fees will be due.

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YAAKOV B. BREZEL
8 KEDUSHAT AHARON ST.
JERUSALEM 94478
ISRAEL

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OFFICE OF PETITIONS

In re Application of
Israel Wagshul et al.
Application No. 61/099,214
Filed: September 23, 2008
Attorney Docket Number: 125p5

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed August 24, 2009, to revive the above identified application.

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

This application became abandoned for failure to timely respond to the Notice to File Missing Parts mailed October 3, 2008. Accordingly, a Notice of Abandonment was mailed June 11, 2009. A petition filed June 29, 2009 under 37 CFR 1.137(b) was dismissed in a decision mailed August 3, 2009 because pursuant to 37 CFR 1.137(b), the petition lacked item (1) of the regulation. Specifically, the Notice mailed October 3, 2008 required the submission of the statutory basic filing fee in the amount of $105.00 plus the late filing surcharge in the amount of $25.00. Effective October 2, 2008 however, the filing fee for a provisional application was actually set at $110.00 not, $105.00. As a result, the credit card authorization was insufficient by $5.00, and since no authorization was given for debiting a deposit account, a proper reply to the Notice to File Missing Parts was not filed.

Comes now petitioner with the instant renewed petition and the balance of the required funds.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

All other requirements having been met, the application is being forwarded to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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 N. Preece
Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy UT 84091

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DEC 11 2009

OFFICE OF PETITIONS

In re Application of :
David Purinton et al. :
Application No. 61/099,907 : DECISION ON PETITION
Filing Date: September 24, 2008 :
Attorney Docket No. T11576.PROV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 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 Provisional Application (Notice), mailed October 20, 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 December 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Statutory basic filing fee and surcharge filed January 21, 2009, (2) the petition fee of $810 (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as attorney of record regarding this application, the appropriate power of attorney document must be submitted.

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 $65 extension of time fee submitted with the petition on August 5, 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 JoAnne Burke at 571-272-4584.

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

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

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA FL 33602

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OFFICE OF PETITIONS

In re Application of
Sidney Haddad
Application No. 61/100,000
Filed: September 25, 2008
Attorney Docket No. P082598-01PV

: DECISION ON PETITION

This is a decision on the petition filed December 22, 2008, requesting that the above-identified application be accorded a filing date of September 25, 2008, with five (5) sheets of drawings containing Figures 1-6 described in the specification as a part of the original disclosure. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed electronically via the Office's Electronic Filing System (EFS) on September 25, 2008. On October 21, 2008, however, the Office of Data Management mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of September 25, 2008, but that Figures 4-6 described in the specification appeared to have been omitted from the application.

Petitioners assert that five sheets of drawings, including Figures 4-6, was filed with the original application EFS submission on September 25, 2008. In support, petitioners have included a copy of the Acknowledgment Receipt, with a time stamp date of September 25, 2008, acknowledging receipt of, *inter alia*, drawings beginning on page 17 and ending on page 21. Petitioners therefore assert that Figures 4-6 of the drawings was received by the Office on September 25, 2008.

The argument and evidence supplied with the petition has been carefully considered, but is not persuasive. Upon a review of the Office EFS database, it was noted that only three sheets of drawings were filed with the application papers filed September 25, 2008 and they did not include Figures 4-6. In fact, the drawings, corresponding with the Acknowledgment Receipt, are found on pages 17-19 and at pages 20 and 21 are

copies of pages 1 and 2 of the Specification and thus two of the pages petitioners claim are drawings are not.

The petition is **DISMISSED**.

The copy of Figures 4-6 supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioner may file Figures 4-6 as a preliminary amendment. If Figures 4-6 are filed as a preliminary amendment, the amendment will be reviewed for new matter.

As the evidence presented is not sufficient to prove that Figures 4-6 were filed with the application when filed, the evidence is insufficient to show that the error was committed by the USPTO and thus, the petition fee will not be refunded.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of September 25, 2008, using only the application papers filed on that date and not the copy of Figures 4-6 submitted with the petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/100,039	09/25/2008	Gilbert Yu	3244-185	1450

7590 11/26/2008

BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

EXAMINER	
ART UNIT	PAPER NUMBER
MAIL DATE	DELIVERY MODE
11/26/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of :
David Peter Louis Simons, et. al. :
Application No. 61/100,298 : DECISION DISMISSING PETITION
Filed: December 3, 2008 :
Attorney Docket No. 009611US1 :

This is a decision on the petition filed December 3, 2008, requesting that the above-identified application be accorded a filing date of September 26, 2008.

The application was filed on September 26, 2008. However, on October 3, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" (Notice) stating that the application has not been accorded a filing date and that the filing date would be the date of receipt of all items required unless otherwise indicated.

In response, on December 3, 2008, three sheets of drawings containing Figures 1-3 was filed accompanied by the present petition. Petitioner asserts that "they are entitled to the filing date of September 26, 2008." Petitioner further asserts that "the drawings were deposited with the US Patent Office at the time of filing the Provisional Application on September 26, 2008. That is, the drawings are clearly identified by document type (i.e., drawings) and date in the Image File Wrapper." Petitioner additionally states that "upon opening the drawings, only a blank page appears." "Because the drawings appear as blank pages in the Image File Wrapper, Applicants believe that the drawings were not transmitted properly due to a possible malfunction with EFS-Web at the time of filing."

The argument is not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official file reveals that, even though the drawing sheets were blank, petitioner only submitted two sheets of drawings using the EFS-Web system on September 26, 2008. Also, the Electronic Acknowledgement Receipt shows two sheets of black and white line drawings submitted on September 26, 2008. However, with the filing of the present petition, petitioner submits three sheets of drawings containing Figures 1-3 and makes the assertion that the drawings were filed on filing of the above application.

The only evidence relied on to support petitioners' allegation is the Electronic Acknowledgement Receipt of September 26, 2008, which shows that two sheets instead of three sheets of drawings were actually filed in the U.S. Patent and Trademark Office.

At the present time, the petition must be **dismissed and the $400 petition fee will not be refunded**. This decision is made without prejudice to reconsideration. If petitioner has evidence that show three sheets of drawings, containing Figures 1-3, was filed on September 26, 2008 instead of two sheets, a copy of the evidence/originally submitted drawings should be supplied and accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

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) is permitted.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/100,710	09/27/2008	Les Okrasa	

CONFIRMATION NO. 4040

Cosmic Descent, LLC.
P.O. Box 249
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/14/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Vidadi YUSIBOV :
Application No. 61/100,741 : DECISION ON PETITION
Filed: September 28, 2008 : TO WITHDRAW
Attorney Docket No. 2002645-0205 : 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 25, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Brenda Herschbach Jarrell does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/101,149	09/29/2008	Les Okrasa	

CONFIRMATION NO. 6405

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/24/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Ranminder SARKARIA :
Application No. 61/101,521 : DECISION ON PETITION TO
Filed: September 30, 2008 : WITHDRAW FROM RECORD
Attorney Docket No. **115456.010100** :

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

The request is **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 Franklin D. Ubell on behalf of all attorney of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

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

cc: **RANMINDER SARKARIA**
1278 CANTERBURY
HERCULES, CA 94547

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of :
Krishnamoorthi, et al. :
Application No. 61/101,545 : DECISION
Filed/Deposited: 30 September, 2008 :
Attorney Docket No. 081475P1 :

This is a decision on the petition filed on 17 October, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 30 September, 2008.

On 15 October, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 17 October, 2008, Petitioner filed, *inter alia*, a petition but appears to have failed to aver therein not that drawings were not necessary for the understanding of the subject matter sought to be patented. (Petitioner states only that the appendices contain drawings.)

Petitioner does not state that the instant application contains one or more method(s) claims, however, that information is evident upon review of the file.

(Petitioner seeks to add the drawing and take a later filing date if the earlier filing date is not accorded. As will be evident, that issue is moot and will not be further addressed.)

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 30 September 2008, without drawings, and the Office transmitted to Petitioner on 15 October, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings/figures (GIS. 1 – 4) were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(*Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).*)

In view of the foregoing, the Notice mailed on 15 October, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an

applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 30 September, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded to Deposit Account 17-0026—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 30 September, 2008, with the 9 pages of specification (description, claims, and abstract) and such appendices deposited on 30 September, 2008, and **no** drawings (FIGS. 1 – 4 as described in the specification) as the original disclosure.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

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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

NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVENUE
18TH FLOOR
NEW YORK, NY 10022

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Georg DUDA, et al	:	
Application No. 61/101,716	:	DECISION ON PETITION
Filed: October 1, 2008	:	
Attorney Docket No. 101215-320	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 Provisional Application (Notice), mailed October 14, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 15, 2008.

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman K. Page
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

VIJAYAN BALAN
12714 N. 113TH WAY
SOCTTSDALE, AZ 85259

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of :
Vijayan Balan :
Application No. 61/102,429 : ON PETITION
Filed: October 3, 2008 :
Attorney Docket No. :

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

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed October 15, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 16, 2008.

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

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the outstanding Office action mailed July 3, 2008. A courtesy copy of this Office action is being mailed along with this decision. Accordingly, the petition to revive cannot be granted until the response to the Office action is received. Further, the petition cannot be revived because petitioner failed to submit the required fee of $25 for the late submission of filing or cover sheet as set forth in 37 CFR 1.16(g) in response to the Notice. If the petitioner intends to submit a renewed petition the fee set forth under 37 CFR 1.16(f) the required fee of $25 must be submitted along with the renewed petition.

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

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: copy of Office Action mailed October 15, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/102,429	10/03/2008	Vijayan Balan	

CONFIRMATION NO. 2985

Vijayan Balan
12714 N. 113th way
Scottsdale, AZ 85259

FORMALITIES LETTER

Date Mailed: 10/15/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

An application number and filing date have been accorded to this provisional application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The provisional application cover sheet under 37 CFR 1.51(c)(1), which may be an application data sheet (37 CFR 1.76), is required identifying:
  - either city and state, or city and foreign country, of the residence of each inventor.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/sduong/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

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DEC 16 2008

In re Application of :
Miska et al. :
Application No. 61/102,536 : DECISION ON PETITION
Filed: October 3, 2008 :
Attorney Docket No. 0380-P04726US00 :

This is a decision on the PETITION TO ESTABLISH THAT DRAWINGS ARE NOT NECESSARY UNDER 35 U.S.C. §113 FOR A FILING DATE: RESPONSE TO "NOTICE OF INCOMPLETE APPLICATION" filed December 2, 2008.

The above-identified application was deposited on October 3, 2008. On October 29, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application, stating that the application was deposited without drawings.

On December 2, 2008, petitioners submitted the present petition. Petitioners assert that the application does not require drawings for an understanding of the invention as the application contains method and composition claims. A review of the provisional application papers deposited on October 3, 2008, reveals that the application contains at least one method claim.

As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a process or method 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. MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the

application contains something that can be construed as a written description and the names of all the inventors.

As this application contains at least one method claim, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application will be accorded a filing date of October 3, 2008, without any drawings.

Accordingly, the petition is **granted**. The $400.00 petition fee is unnecessary and will be refunded in due course.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of **October 3, 2008**, with "0" sheets of drawings, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/102,882	10/06/2008	Les Okrasa	

CONFIRMATION NO. 4787

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/24/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of :
John Giobbi :
Application No. 61/102987 : DECISION ON PETITION
Filing or 371(c) Date: 10/06/2008 :
Attorney Docket No. 25000-14785 :

This is a decision on the "Petition Under 37 C.F.R. § 1.53(e)," filed November 7, 2008, requesting that the Office accord the present application a filing date of October 6, 2008, in view of drawing Figures included with the application as-filed on October 6, 2008.

The petition is granted to the extent indicated herein.

On October 6, 2008, applicants deposited the above-identified application. On November 7, 2008, the Office of Patent Application Processing 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. The Notice set forth a two-month period for reply from the mailing date of the Notice.

In the present petition, Applicant explains that drawing Figures 1 appears on page 14 of part 1 of the application as filed, and that there are various other figures in the provisional application. Applicant also files with the petition "an additional copy of the figures." Applicant requests the application be accorded a filing date of October 6, 2008, and Applicant requests a refund of the petition fee.

A review of the file reveals that the application as-filed included drawing Figure that Applicant has now identified as figure 1; however, the drawing figure now identified as figure 1 was not labeled as such with the application papers filed on October 6, 2008. A review of the application papers filed on October 6, 2008 further reveals the presence of additional drawing figures, although again, none of the drawing figures were labeled.

In view of the above, the provisional application as-filed on October 6, 2008, may be accorded a filing date based upon the presence of at least one drawing Figure in accordance with 35 U.S.C.

§§ 111(b) and 113. However, the amendment of the provisional application – filed with the present petition and putatively "an additional copy of the figures" – is not permitted.

37 CFR 1.53(c), states:

> (c) Application filing requirements - Provisional application . The filing date of a provisional application is the date on which a specification as prescribed by the first paragraph of 35 U.S.C. 112, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application. (Emphasis supplied).

A refund of the petition fee has been credited to Applicant's deposit account as authorized in the present petition.

The application file will be referred to the Office of Patent Application Processing

- to accord the application a filing date of October 6, 2008, using the application papers filed on that date,

and for continued processing in the normal course of business.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/103,236	10/06/2008	Les Okrasa	

CONFIRMATION NO. 6220

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/16/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/02/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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PRATT & WHITNEY
400 MAIN STREET
MAIL STOP: 132-13
EAST HARTFORD CT 06108

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
Horn, Mark :
Application No. 61/103,702 : ON PETITION
Filed: October 8, 2008 :
Attorney Docket No. PA-00100246-US :

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed July 16, 2009, to revive the above-identified application. In view of the allegation in the petition of the non-receipt of the Notice to File Missing Parts of Provisional Application, the petition will be considered under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the Notice to File Missing Parts Office action mailed October 24, 2008, which set a shortened statutory period for reply of two (2) months. A reply was due on or before December 24, 2008. A Notice of Abandonment was mailed on July 1, 2009.

Petitioner asserts that the Notice dated October 24, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

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

Petitioner has failed to comply with item (2) listed above. Further, although petitioner did submit a copy of the docket, the copy of the practitioner's record(s) required to show non-receipt of the Office action should also include the master docket for the firm. That is, if a two month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date two months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

A decision on the petition to revive under 1.137(a) will be held in abeyance to allow petitioner an opportunity to respond to the instant decision. If petitioner cannot provide the evidence requested above, or simply does not wish to, petitioner should notify the Office to consider the petition to revive under 37 CFR 1.137(a). It is noted that the requisite $540.00 petition fee was not submitted with the instant petition. The petition fee is required for consideration of the petition under 37 CFR 1.137(a).

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-09

PRATT & WHITNEY
400 MAIN STREET
MAIL STOP: 132-13
EAST HARTFORD CT 06108

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DEC 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Mark Horn :
Application Number: 61/103702 : ON PETITION
Filing Date: 10/08/2008 :
Attorney Docket Number: PA-0010246-US :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on October 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.[2]

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2] Petitioner is reminded that a provisional application will automatically be abandoned 12 months after its filing date and will not be subject to revival to restore it to pending status thereafter. See 35 U.S.C. 111(b)(5).

This application became abandoned on December 25, 2008, for failure to timely file a response to the Notice to File Missing Parts of Provisional Application mailed on October 24, 2008, which set a two (2) month period for reply. Notice of Abandonment was mailed on July 1, 2009. The petition filed on July 16, 2009, was dismissed on September 23, 2009.

Petitioners have filed an Application Data Sheet to satisfy the requirements of the Notice mailed on October 24, 2008.

The surcharge of $50.00 required by the Notice mailed on October 24, 2008 will be charged to counsel's deposit account.

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.[3] 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 petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application will be referred to the Office of Patent Application Processing for further processing.

---

[3] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

Cf:

DAVID L. WISZ
400 WEST MAPLE RD, STE 350
BIRMINGHAM MI 48009

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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OFFICE OF PETITIONS

PATTERSON & SHERIDAN, LLP - - APPM/TX
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

In re Application of	:	
White et al.	:	DECISION GRANTING
Application No. 61/104,254	:	PETITION
Deposited: October 9, 2008	:	
Attorney Docket No.	:	
013941L/Display/AKT/ES	:	
Title of Invention: Arcing Countermeasures	:	

This is a decision on the petition filed November 6, 2008, requesting that the above-identified provisional application be accorded a filing date of October 9, 2008.

The application was deposited on October 9, 2008. However, on October 22, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" advising applicant that the application papers had not been accorded a filing date because the application was deposited without a specification as prescribed by 35 USC 112.

In response, on October 9 2008, the present petition was filed. In essence petitioner states that the drawings and text are sufficient to satisfy the embodiment of the invention. Applicant cites to *Vas-Cath, Inc. v. Maharkur*, 935 F.2d 155, 19 U.S.P.Q.2d 1111 (Fed. Cir. 1991).

It is the practice of the Office to accord a filing date to an application that appears to comply with the requirements for according a filing date. As such drawings alone may be sufficient to provide the written description requirement of 35 USC 112. The present provisional application appears to comply with the requirements for a filing date. It is not necessary to now determine whether this provisional application will adequately support any non-provisional application claiming the benefit of its filing date. In this instance, the four (4) pages of drawings will be construed as the written description required by 35 USC 112.

As such only the application papers filed on October 9, 2008 will be considered part of the application.

The petition is **granted** to the extent indicated.

The petition fee will not be refunded because the petition was not necessitated by Office error.

The application will be processed with only the papers present on filing and is hereby accorded a filing date of **October 9, 2008**.

The application is being returned to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition 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
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/104,258	10/09/2008	Les Okrasa	

CONFIRMATION NO. 1674

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/24/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

Greenberg Traurig, LLP (LA)
2450 Colorado Avenue, Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

In re Application of :
Charles Mwangi :
Application No. 61/104,481 : DECISION ON PETITION
Filed: October 10, 2008 : TO WITHDRAW
Attorney Docket No. 115470-010100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 28, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Franklin D. Ubell and attorneys/agents associated with customer number 33717: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will be mailed to the applicant. The address is copied below.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Charles Mwangi
13769 Coldwater Court
Corona, CA 92880

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/104,697	10/10/2008	Les Okrasa	

CONFIRMATION NO. 2696

Cosmic Descnet, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 07/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMPSON HINE L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 8801
DAYTON OH 45401-8801

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OFFICE OF PETITIONS

In re Application of :
Brenda L. WONG et al. :
Application No. 61/105,577 : DECISION ON PETITION
Filed: October 15, 2008 :
Attorney Docket No. **070248.74** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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 Missing Parts of Nonprovisional Application (Notice), mailed December 08, 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 09, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of December 08, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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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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Albuquerque Engineer District
Attn: CESPA-OC
4101 Jefferson Pl. NE
Albuquerque, NM 87109-3434

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SEP 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Bruce M. Sabol :
Application No. 61/106,407 : DECISION ON PETITION
Filed: October 17, 2008 :
Attorney Docket No. COE-625 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed November 18, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly the case became abandoned on January 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a provisional application cover sheet and a $50.00 surcharge fee, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the provisional cover sheet and surcharge fee are 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.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received July 17, 2009.

Carl Friedman
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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ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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AUG 28 2009

OFFICE OF PETITIONS

In re Application of :
Robb Fujioka :
Application No. 61/106,645 : ON PETITION
Filed: October 20, 2008 :
Attorney Docket No. 108369-63455 (203110-0004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed October 30, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 31, 2008. The Notice of Abandonment was mailed July 9, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

Item 1:

The required reply is incomplete. The $25 surcharge that was required from the Notice to File Missing Parts of Provisional Application was omitted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri 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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ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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OCT 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Robb Fujioka	:	
Application No. 61/106,645	:	ON PETITION
Filed: October 20, 2008	:	
Attorney Docket No. 108369-63455 (203110-0004	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice) mailed October 30, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 31, 2008. The Notice of Abandonment was mailed July 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $125 statutory basic filing fee and the $25 surcharge; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to the Office of Patent Application Processing for further processing.

Terri Johnson
Petitions Examiner
Office of Petitions

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THE LUTHER LAW FIRM, PLC
10575 N 114TH STREET
SUITE 103
SCOTTSDALE AZ 85259

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OFFICE OF PETITIONS

In re Application of :
Van Luven :
Application No. 61/106,720 : ON PETITION
Deposited: October 20, 2008 :
Attorney Docket No. GVL-04 :
For: NUTRITIONAL SHOPPING CART TOOL

This is a decision on the correspondence entitled, "**PETITION FOR FILING DATE FOR INCOMPLETE APPLICATION**," filed December 11, 2008, to accord a filing date of October 20, 2008 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on October 20, 2008. However, on October 29, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawing(s). It is noted that the specification filed on October 20, 2008 refers to drawing figures.

Petitioner requests that the application be accorded an October 20, 2008 filing date because drawings are not required for the understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence.)

MPEP 601.01(f) also states that:

> ... [A] provisional application having at least some disclosure ...for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, and filed without drawings will be treated as an

application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This provisional application contains method claims and a detailed written description. Therefore, the application should have been accorded a filing date without drawings.

In view of the above, the "Notice" mailed October 29, 2008 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of October 20, 2008 without drawing figures. The petition is **granted**.

Pursuant to petitioner's authorization, the $400.00 petition fee will be credited to petitioner's credit card.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **October 20, 2008** and the mailing of a filing receipt reflecting the October 20, 2008 filing date.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/107,334	10/21/2008	Les Okrasa	

CONFIRMATION NO. 3745

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/24/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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

OCT 07 2009

OFFICE OF PETITIONS

In re application of :
Herbert Ghen, et al. :
Application No. 61/108,229 : ON PETITION
Deposited: October 24, 2008 :
Attorney Docket No. 636477-07015 :

This is a decision in response to a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed March 25, 2009, which is being treated as a petition to withdraw the "Notice of Termination of Proceedings Under 37 CFR 1.53(e)" and to accord the application a filing date of October 24, 2008.

The petition to withdraw the Notice of Termination of Proceedings Under 37 CFR 1.53(e) is **GRANTED**.

The petition to accord the above-identified application a filing date of October 24, 2008 is **GRANTED**.

A review of the record shows that the application was deposited on October 24, 2008. However, on November 28, 2008, a Notice of Incomplete Provisional Application was mailed, requiring drawings. On March 2, 2009, a Notice of Termination of Proceeding Under 37 CFR 1.53(e) was mailed stating that the proceedings on the above-application were terminated because (1) the application did not meet the requirements to be entitled to a filing date, and (2) the filing error specified in the November 28, 2008 Notice was not timely corrected. In response, on March 25, 2009, the present petition was filed, wherein petitioner argues drawings are not necessary.

Preliminarily, it is noted that the application was not abandoned within the meaning of 37 CFR 1.137(b) but rather proceedings were terminated. Thus, the filing of a petition to revive is inappropriate.

35 U.S.C. 111(b)(4) provides that:

> … The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) also states that:

> …a provisional application having at least some dislcosure…, directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

As previously stated, the application was not abandoned. Rather, the application was deemed to be incomplete and not entitled to a filing date because it was filed without drawings. Proceedings were terminated when drawings were not filed.

In view of petitioner's assertion that drawings are not necessary for a filing date in this application, drawings will not be further considered as a part of this case.

Given the basis for granting the petition to accord a filing date of October 24, 2008, the $810 petition fee is subject to refund upon the filing of a request therefor.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for:

- <u>according the filing date of October 24, 2008</u>, using the papers filed on that date;
- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and

- **withdrawing of the Notice of Termination of Proceedings mailed March 2, 2009** and processing of any fee adjustments, as appropriate.

Telephone inquiries specific 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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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PETER UHL
205-306 THE DONWAY WEST
TORONTO, ONTARIO M3B 3S5
CANADA

In re Application of :
Uhl, et al. :
Application No. 61/108,484 : DECISION
Filed: 24 December, 2008 :
Attorney Docket No. 192 PU-01-US :

This is a decision on the petition filed on 16 September, 2009, pursuant to 37 C.F.R. §1.137(a) for revival of an application abandoned due to unintentional delay, and refilled on 2 October, 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(a) is **DISMISSED**; the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

NOTE: There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

As to the Allegations
of Unavoidable 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 showing of unavoidable 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).

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 of Missing Parts (Provisional Coversheet and surcharge) mailed on 1 December, 2008, with reply due absent extension of time on or before 1 February, 2009.

The application went abandoned by operation of law after midnight 1 February, 2009.

The Office mailed the Notice of Abandonment on 10 August, 2009.

On 16 September, 2009, Petitioner/Applicant Peter Uhl filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(a), a reply in the form of a coversheet, but no surcharge, and made no showing of unavoidable delay. *However, there Applicants herein are Uhl and Knecht, and with no power of attorney/registered practitioner of record, all Applicants must sign papers. (See: MPEP §714.01(a), which provides in pertinent part: "An unsigned amendment or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.")*

On 2 October, 2009, Thomas N. Young (Reg. No. 20,985) submitted a petition (with fee) pursuant to 37 C.F.R. §1.137(b), but signed by him, with additional fee (unnecessary and now refunded), a reply in the form of a coversheet, the required balance of the reply (surcharge), made the statement of unintentional delay and filed a terminal disclaimer and fee, which are not necessary here and the fee is being refunded as well.

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.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(a) is **dismissed** as not considered for being unsigned; 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.

---

[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.

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

cc
THOMAS N YOUNG
YOUNG BASILE
HANLON & MACFARLANE
3001 W BIG BEAVER ROAD/STE. 624
TROY, MI 48084

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/108,545	10/26/2008	Les Okrasa	

CONFIRMATION NO. 9095

Cosmic Descent. LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 11/24/2009

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/04/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of :
Uwe ZELLER :
Application No. 61/108,552 : DECISION ON PETITION
Filed: October 27, 2008 :
Attorney Docket No. **026212-9022-00** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 27, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) in that there is no statement about the delay being unintentional. A copy of the PTO/SB/64 is attached for petitioner's use.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64

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MAR 26 2010

OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

In re Application of :
Uwe ZELLER :
Application No. 61/108,552 : DECISION ON PETITION
Filing Date: October 27, 2008 :
Attorney Docket No. **026212-9022-00** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of November 26, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

This application is being referred to the Office Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Yuhwa Lo
ECE Dept. (0407), UCSD
9500 Gilman Drive
La Jolla CA 92093-0407

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OCT 13 2009

OFFICE OF PETITIONS

In re Application of
Qiao, et al.
Application No. 61/110,933
Filed: November 3, 2008
Attorney Docket No. N/A
For: ACCOMMODATING INTRAOCULAR LENS

ON PETITION

This is a decision on the petition, filed September 14, 2009, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not signed by a proper party.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Yu-Hwa Lo. Yu-Hwa Lo has not provided an attorney registration number and a review of Office records does not reveal that a person named Yu-Hwa Lo has been assigned a registration number. Yu-Hwa Lo has not shown that he is an authorized representative of an assignee who has right to take action.

In short, Yu-Hwa Lo has not established that he is permitted to file amendments and other papers in this application on his own. It is noted that he is one of six joint inventors.

In any reconsideration petition, applicants are encouraged to file a reconsideration petition selecting **one** of the following courses of action: Either (a) submit Yu-Hwa Lo's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee (if there is one) establishing ownership of the invention signed by a person authorized to act on behalf of the assignee (the person authorized to act on behalf of the assignee should be Yu-Hwa Lo and in this manner, the signature on instant petition will be ratified); or (c) submit another copy of the petition signed by all six joint inventors.

Petitioners are informed that the current small entity petition fee associated with filing a petition under 37 CFR 1.137(b) is $810.00. The present petition was submitted with only a $400.00 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 concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Anthony R. MEGARO, et al :
Application No. 61/110,952 : NOTICE
Filed: November 3, 2008 :
Attorney Docket No. 2284.40834P1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of
Koberstein, et al.
Filed: November 4, 2008
Application No. 61/111,222
Atty. Dkt. No.: 19240.728-US1

: ON PETITION

This decision is in response to the petition, filed February 19, 2009, to accord the above-identified application a filing date of November 4, 2008.

The petition is hereby GRANTED.

The above-identified application was filed November 4, 2008. The Notice of Omitted Items in a Provisional Application (Notice) mailed, December 19, 2008 indicated, *inter alia*, that the application had been accorded a filing date, but that Figures "11a" and "11b" appeared to have been omitted from the application as filed.

Petitioners contend that the application as filed contained no omissions and that there is no Figure 11a or 11b.

Petitioners' argument has been considered and found convincing. The description of Figure 11 states:

> "A) Deconvolution results for the XPS high resolution Cls spectrum of first layer of PS and second layer of P*t*BA after click chemistry showing the contribution of each carbon type (TOA=15°). B) Deconvolution results for the XPS high resolution Cls spectrum of first layer of P*t*BA and second PS and third P*t*BA after click chemistry showing the contribution of each carbon type (TOA= 15°)."

Thus, it cannot be found that any figures were omitted upon filing. Since no figures were actually missing on November 4, 2008, the application will be processed using the drawings filed on November 4, 2008.

As no figures were missing on filing, the Notice was mailed in error and is hereby withdrawn. Petitioners are entitled to a refund of the $400.00 petition fee and may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of November 4, 2008 and with an indication that no drawing figures were omitted on filing.

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

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of Murray et al. :
Application No. 61/111,539 : Decision on Petition
Filing Date: November 5, 2008 :
Attorney Docket No. 22297-00008-US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed December 15, 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 above-identified application became abandoned on January 29, 2009. A Notice of Abandonment was mailed on August 6, 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 Parts. Petitioner has submitted the required petition fee. 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.

A provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application is hereby deemed revived until midnight on November 5, 2009, when it went abandoned as a matter of law.

The Office of Patent Examination Processing will be informed of the instant decision. Thereafter, the Office of Patent Examination Processing will take any steps necessary to complete processing of the application.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/111,664	11/05/2008	Les Okrasa	

CONFIRMATION NO. 2551

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/07/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/26/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

SUSAN JANE BERG
33782 COLLEGIO DRIVE
DANA POINT, CA 92629

In re Application of :
Susan Jane Berg :
Application No. 61/111,686 : ON PETITION
Filed: November 5, 2008 :
Attorney Docket No. None :

This is a decision on the petition filed July 31, 2009, and supplemented on August 4, 2009, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On November 17, 2008, the Office mailed a Notice to File Missing Parts of Provisional Application (Notice), which set a two month shortened statutory period to reply. The application became abandoned on January 18, 2009, for failure to submit a timely response to the Notice. On July 27, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the Notice to File Missing Parts of Provisional Application. Specifically, petitioner asserts that the Notice mailed November 17, 2008 was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice to File Missing Parts of Provisional Application, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where she writes down due dates; how she knows replies are due, etc. In essence, petitioner must explain how

she reminds herself of response due dates and show that the due date for the Notice of November 17, 2008, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after November 17, 2008, to demonstrate nonreceipt of the Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from herself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice was not found. Lastly, petitioner must state that she was, in fact, residing at the correspondence address of record for a reasonable time after November 17, 2008; the period when he would have received the Notice.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of her method for tracking due dates for filing responses to communications from the USPTO to show she did not receive the Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the Notice accompanies this decision for petitioner's convenience.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

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: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to Alicia Kelley at (571) 272-6059.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enclosures: Notice to File Missing Parts of Provisional Application

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/111,686	11/05/2008	Susan Jane Berg	

CONFIRMATION NO. 2623

Susan Jane Berg
33782 Collegio Drive
Dana Point, CA 92629

FORMALITIES LETTER

OC000000033059219

Date Mailed: 11/17/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

An application number and filing date have been accorded to this provisional application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit **$110** *to complete the basic filing fee for a small entity.*

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$135** for a small entity
- **$110** Statutory basic filing fee.
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/wjsalc/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUSAN JANE BERG
33782 COLLEGIO DRIVE
DANA POINT, CA 92629

MAILED

FEB 16 2010

OFFICE OF PETITIONS

In re Application of :
Susan Jane Berg :
Application No. 61/111,686 : DECISION ON PETITION
Filed: November 5, 2008 :
Attorney Docket No. None :

This is a decision on the renewed petition, filed January11, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Missing Parts of Provisional Application mailed November 17, 2008, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 27, 2009.

Petitioner asserts that the Notice to File Missing Parts dated November 17, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received.

The showing made in the renewed petition overcomes the presumption. The renewed petition included the required statements and an explanation of how petitioner receives mail from the USPTO, keeps track of and maintain files for patent matters and how reminders are set for upcoming due dates. Also, the petitioner has supplied the reply in the form of the statutory basic filing fee of $110 and surcharge of $25.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner should note that although the holding of abandonment is withdrawn the above mentioned provisional application went abandoned at midnight on November 5, 2009. Any delayed claim under 35 USC 119 or 37 CFR 1.78 for the benefit of priority to this provisional application should reference this decision.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Chris Bottorff
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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HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY NY 12207

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Application of :
Mangla, et al. :
Application No. 61/111,783 : ON PETITION
Filed: November 6, 2008 :
Attorney Docket No. R1667-100 :
For: STENT STABILIZER

This is a decision on the petition under 37 CFR 1.181, filed June 18, 2009, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Petitioners request a refund of the extension of time fee paid on June 9, 2009 because they contend that the fee was paid due to error on the part of the USPTO.

On November 19, 2008, the Office mailed a Notice to File Missing Parts of Provisional Application, which required applicants to submit a provisional application cover sheet that lists each inventor's city and state or city and foreign country of residence and a $50.00 surcharge. On December 2, 2008, applicants filed a provisional cover sheet and a $50.00 surcharge. On May 26, 2009, the Office mailed a Notice of Incomplete Reply because the December 2, 2008 cover sheet lacked each inventor's city of residence. On June 9, 2009, applicants filed a petition for a 5 month extension of time with required $1,175.00 fee and a provisional cover sheet that lists each inventor's city and state of residence.

Petitioners contend that the Office should have promptly informed petitioners that there was a problem with their December 2, 2008 reply. Petitioners argue that if this had been done, the additional extension of time fee would not have been necessary.

Petitioners are reminded that the applicable statute, 35 U.S.C. 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required."

Thus the USPTO may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action). 37 CFR 1.26(a)

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The November 29, 2008 Notice to File Missing Parts of Provisional Application set a two month extendable period to submit a complete provisional cover sheet and a $50.00 surcharge. The Notice of Incomplete Reply set no new period for reply. As a courtesy, the Office attempted to inform applicants of the incomplete response prior to the expiration of the period set for reply. However, the period set in the November 29, 2008 Notice continued to run even after the December 2, 2008 reply was filed because the December 2, 2008 reply was incomplete. The December 2, 2008 reply only listed each inventor's state of residence. Petitioners filed a proper provisional cover sheet and purchased a five month extension of time on June 9, 2009 in order to avoid abandonment. The filing of an extension of time in order to avoid abandonment is not a mistake within the meaning of the aforementioned statute and regulation that warrants a refund.

Furthermore, petitioners are reminded that the word "shall" appears in 35 U.S.C. § 41(a)(8)(C) pertaining to extensions of time. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Commissioner charge, and the applicants pay, the fees specified by statute upon presentation of a request for a service by the PTO. See BEC Pressure Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). The language of the statute does not permit the Director any discretion with respect to charging the fees set forth therein. Id.

The fee was properly charged and will not be refunded.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/111,834	11/06/2008	Les Okrasa	

CONFIRMATION NO. 3152

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 07/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Foley & Lardner, LLP
975 Page Mill Road
Palo Alto, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Rakesh K. Jain	:	
Application No. 61/112,681	:	DECISION ON PETITION
Filed: November 7, 2008	:	TO WITHDRAW
Attorney Docket No. 092890-1400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 15, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Antoinette F. Konski and attorneys/agents associated with customer number 38706: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future correspondence will be mailed to the address of the first signing inventor.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rakesh K. Jain
41415 Timber Creek Terrace
Fremont, CA 94539

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/112,727	11/08/2008	Les Okrasa	

CONFIRMATION NO. 6442

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 07/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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TODD COULTER
7037 LINDERO LANE
RANCHO MURIETA, CA 95683

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OFFICE OF PETITIONS

In re Application of Coulter :
Application No. 61/112,749 :
Filing Date: November 8, 2008 :
Attorney Docket No. 696798001US :
For: Mobile Card Access & Authorization :

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 to File Missing Parts of Nonprovisional Application mailed November 28, 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 above-identified application became abandoned on January 29, 2009. A Notice of Abandonment was mailed on August 6, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to requirements (1) and (2), petitioner has submitted a reply to the Notice to File Missing Parts and the petition fee.

As to requirement (3), the petition states the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The petition is signed by Attorney Stephen Bishop. However, Attorney Bishop

was not a representative of record at the application the application became abandoned. Therefore, it appears Attorney Bishop may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Bishop that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

As to requirement (4), although a terminal disclaimer has not been filed, a terminal disclaimer is unnecessary in this case.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

A provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application is hereby deemed revived until midnight on Monday, November 9, 2009, when it went abandoned as a matter of law.

As previously stated, the petition is signed by Attorney Stephen Bishop. There is no indication that Bishop has been a power of attorney to prosecute the above-identified application. If Attorney Bishop wishes to receive future correspondence regarding this application, the appropriate power of attorney must be submitted. While a courtesy copy of this decision is being mailed to the address on the petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The Office of Patent Examination Processing will be informed of the instant decision. Thereafter, the Office of Patent Examination Processing will take any steps necessary to complete processing of the application.

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

cc: Perkins Coie LLP
PO Box 1247
Seattle, WA 98111-1247

[1] *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 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 12 2010

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 2005

In re Application of :
John SADLER, et al :
Application No. 61/114,305 : DECISION ON PETITION
Filed: November 13, 2008 : TO WITHDRAW
Attorney Docket No. 74929.00200.PRV1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 14, 2009.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Martin R. Bader does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MARTIN R. BADER
P.O. BOX 919092
SAN DIEGO CA 92191-9092

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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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

MAILED

FEB 17 2010

OFFICE OF PETITIONS

In re Application of :
John Hui :
Application No. 61/114,503 : DECISION ON PETITION
Filed: November 14, 2008 :
Attorney Docket No. 108126-62368-P2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2009 and August 3, 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 Provisional Application (Notice), mailed November 26, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on January 27, 2009. A Notice of Abandonment was mailed August 7, 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 Basic filing fee of $110.00 and the $25.00 surcharge (previously submitted on August 3, 2009) (2) the petition fee of $810.00 (previously submitted on August 3, 2009), and (3) a proper statement of unintentional delay.

A provisional application may be revived so as to be pending for a period no longer than 12 months from its filing date. This application was hereby deemed revived until November 14, 2009, when it became abandoned as a matter of law.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175.00, five-month extension of

time fee submitted with the petition on August 3, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

This matter is being referred to the Office of Patent Application Processing for retention purposes.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petition 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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THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON DE 19808

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Barnette, et al. :
Application No. 61/114,646 : DECISION
Filed/Deposited: 14 November, 2008 :
Attorney Docket No. PI2080 US PRV3 :

This is a decision on the petition filed on 12 February, 2009, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition pursuant to 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 14 November, 2008.

On 23 December, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OPAP indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OPAP set a two- (2-) month period for reply.

On 12 February, 2009, Petitioner filed, *inter alia*, a petition and averred therein not that drawings were not necessary for the understanding of the subject matter sought to be patented.

Petitioner stated that the instant application contains one or more method(s) claims, and that information is evident upon review of the file.

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 14 November, 2008, without drawings, and the Office transmitted to Petitioner on 23 December, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings/figures were not deposited with the instant application, but avers that drawings are not necessary for an understanding of the subject matter sought to be patented.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(*Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).*)

In view of the foregoing, the Notice mailed on 23 December, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus,

now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 14 November, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded via credit card—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) to be processed for correction of the filing date to 14 November, 2008, with the 259 pages of specification (description, claims) deposited on 14 November, 2008, and **no** drawings as the original disclosure.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[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] 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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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of Smith et al. :
Application No. 61/114,807 : Decision on Petition
Filing Date: November 14, 2008 :
Attorney Docket No. 09932.6009-00000 :

This is a decision on the petition requesting that the above-identified provisional application be accorded a filing date of November 14, 2008.

The petition is **granted**.

On November 14, 2008, the application was filed.

The specification filed on November 14, 2008, described drawings containing Figures 1 and 2, but no drawings were filed on November 14, 2008.

On January 9, 2009, a Notice was mailed stating that the application was filed without drawings. The Notice also stated a filing date had not been accorded and the filing date would be the date of receipt of drawings.

It is the practice of the PTO to treat a provisional application that contains at least some disclosure directed to a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP 601.01(f) 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)....
>
> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains some disclosure directed to a process or method. In fact, the application was filed with a set of claims which includes at least one method claim. Therefore, the application will be accorded a filing date of November 14, 2008.

Per 601.01(g), a Notice of Omitted Items rather than a Notice of Incomplete Application should have been mailed. The Notice of Omitted Items would have informed petitioner a filing date had been accorded and that the drawing figures referred to in the specification appeared to be missing.

In view of the above, the "Notice" mailed January 9, 2009, was mailed in error and is hereby withdrawn.

The application will be accorded the November 14, 2008, filing date without drawings as requested in the petition.

It should be noted that the claims filed in any subsequent non-provisional application will determine whether or not drawings are necessary for that application since the "subject matter sought to be patented" is determined by the claims in an application. Therefore, the instant decision should not be construed as a determination that drawings will or will not be necessary for a filing date for any future non-provisional applications.

The petition fee of $400 has been credited back to petitioner's credit card.

Petitioner submitted two sheets of drawings with the petition. However, petitioner has not proven the drawings were part of the application papers filed November 14, 2008. Therefore, the drawings will *not* be entered.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing for:

- **correction of the filing date to November 14, 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.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/115,091	11/16/2008	Les Okrasa	

CONFIRMATION NO. 5246

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 07/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **04/26/2010,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CHOATE, HALL & STEWART/HARVARD UNIVERSITY
Two International Place
Boston, MA. 02110

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Alec Nathanson FLYER et al :
Application No. 61/115,395 : DECISION GRANTING
Filed: November 17, 2008 : PETITION
Attorney Docket No. 0342941-0343 (HU 3219) :

This is a decision on the petition filed January 5, 2009, requesting that the above-identified application be accorded a filing date of November 17, 2008, rather than the presently accorded date of the receipt of the drawings. The petition is properly treated as a petition under 37 CFR 1.182.

The petition is **GRANTED**.

The application was deposited on November 17, 2008. However, the Office of Patent Application Processing (OPAP) mailed a "Notice of Incomplete Nonprovisional `Application (Notice) on December 23, 2008, indication that the application was filed without drawings. In reply, petitioner requests the earlier filing date on the basis that the application was complete as filed on November 17, 2008. Petitioner submits that Figure 1 is not necessary for the understanding of the subject matter sought to be patented, given that the same information is also included on page 30 of the application as originally filed.

Since the drawings are not necessary for an understanding of the invention, the application will be accorded a filing date of November 17, 2008.

This application file is being returned to the Office Patent Application Processing (OPAP) for **correction of the filing date to November 17, 2008, an indication in the Office records that "0" sheets of drawings were present on filing, and issuance of a corrected filing receipt.**

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address

given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-0602. Telephone inquiries related to OPAP processing should be directed to their hotline at (703) 308-1202.

/Thurman K Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

cc PATENT GROUP
CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA. 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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Two International Place
Boston, MA. 02110

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Alec Nathanson FLYER et al :
Application No. 61/115,395 : DECISION GRANTING
Filed: November 17, 2008 : PETITION
Attorney Docket No. 0342941-0343 (HU 3219) :

This is a decision on the petition filed January 5, 2009, requesting that the above-identified application be accorded a filing date of November 17, 2008, rather than the presently accorded date of the receipt of the drawings. The petition is properly treated as a petition under 37 CFR 1.182.

The petition is **GRANTED**.

The application was deposited on November 17, 2008. However, the Office of Patent Application Processing (OPAP) mailed a "Notice of Incomplete Nonprovisional `Application (Notice) on December 23, 2008, indication that the application was filed without drawings. In reply, petitioner requests the earlier filing date on the basis that the application was complete as filed on November 17, 2008. Petitioner submits that Figure 1 is not necessary for the understanding of the subject matter sought to be patented, given that the same information is also included on page 30 of the application as originally filed.

Since the drawings are not necessary for an understanding of the invention, the application will be accorded a filing date of November 17, 2008.

This application file is being returned to the Office Patent Application Processing (OPAP) for **correction of the filing date to November 17, 2008, an indication in the Office records that "0" sheets of drawings were present on filing, and issuance of a corrected filing receipt.**

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address

given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-0602. Telephone inquiries related to OPAP processing should be directed to their hotline at (703) 308-1202.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc PATENT GROUP
CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA. 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Gerard Grand
299 Riverview Blvd.
St. Catharines L2T 3N3 CA **CANADA**

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DEC 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Gerard Grand :
Application No. 61/115,610 : ON PETITION
Filed: November 18, 2008 :
Attorney Docket No. 044 GG-133-US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2009, to revive the above-identified application.

This application became abandoned for failure to file a response to the Notice to File Missing Parts of Non-provisional Application mailed December 1, 2008. A Notice of Abandonment was mailed on August 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 a Provisional Application for Patent Cover Sheet and the $25 surcharge; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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TRELLIS INTELLECTUAL PROPERTY LAW GROUP,
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

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MAR 11 2009

OFFICE OF PETITIONS

In re Application of :
Tyler T. Parham et al :
Application No. 61/115,694 :
Filed: November 18, 2008 :
Attorney Docket No. 021226-001300US :

DECISION ON PETITION FOR FILING DATE

This is a decision on the petition filed February 11, 2009 entitled, "PETITION UNDER 35 U.S.C. §113," which is being treated as a petition under 37 CFR 1.53(e), requesting that this application be accorded a filing date of November 18, 2008.

The petition under 37 CFR 1.53(e) is **dismissed.**

The application was deposited on November 18, 2008. However, on December 23, 2008, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete provisional Application," stating that the application was deposited without drawings and that the filing date of the application will be the date of receipt of the drawings.

In response, the present petition was filed. The petition states that "drawings are not necessary for the understanding of the subject matter sought to be patented." However, as filed, the specification describes the invention through the Drawings listed therein and that a mere assertion that the drawings are not necessary is not sufficient.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy
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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PALO ALTO CA 94303

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
Tyler T. Parham :
Application No.: 61/115,694 : ON PETITION
Filed: November 18, 2008 :
Attorney Docket No.: 021226-001300US :

This is a decision on the renewed petition filed on September 17, 2009, requesting that the above-identified provisional application, without drawings, be accorded a filing date of November 18, 2008.

The petition is **GRANTED**.

The application was filed on November 18, 2008, without drawings. Accordingly, on December 23, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings.

On September 17, 2009, the present petition was filed. Petitioners concede that the application was filed without drawings, but argue, *inter alia*, that drawings are not necessary for the understanding of the subject matter sought to be patented.

MPEP § 601.01(f) states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as

the application contains something that can be construed as a written description.

The arguments in the petition will be construed to mean that petitioner's counsel is asserting that drawings are not necessary for a filing date in this application. Drawings will not be further considered as a part of this case.

In view of the above, the "Notice" mailed December 23, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of November 18 2008, without drawings as a part of the original disclosure.

No petition fee is due. The petition fee will be credited to counsel's deposit account.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to November 18, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/115,941	11/19/2008	Les Okrasa	

CONFIRMATION NO. 8574

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(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
61/116,663	11/21/2008	Borge Holm Christensen	134772 RC/MQ

CONFIRMATION NO. 1804

CONVERSION REQUEST

AIR MAIL
62691
BUDDE, SCHOU & OSTENFELD, A/S
VESTER SOEGADE 10, 5TH FLOOR
COPENHAGEN, DK-1601
DENMARK

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/116,663	11/21/2008	Borge Holm Christensen	134772 RC/MQ

CONFIRMATION NO. 1804

CONVERSION REQUEST

AIR MAIL
62691
BUDDE, SCHOU & OSTENFELD, A/S
VESTER SOEGADE 10, 5TH FLOOR
COPENHAGEN, DK-1601
DENMARK

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009**, to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Amadeo, et al. :
Application No. 61/117,033 : DECISION ON PETITION
Filed: November 21, 2008 :
Attorney Docket No. 014801-010700US:

This is a decision on the petition under 37 CFR 1.53, filed March 2, 2009, to accord the above-identified application a filing date of November 21, 2008.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on November 21, 2008. However, on January 2, 2009, the Initial Patent Examination Division mailed Applicants a "Notice of Incomplete Provisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

It is obvious from reviewing the file that drawings were indeed filed with the application on November 21, 2008. Accordingly, the provisional application will be accorded a filing date of November 21, 2008, using the 3 pages of drawings filed on that date.

Given the basis for granting the petition, the $400 petition fee will be refunded to petitioner under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of November 21, 2008, using the application papers received in the Office on that date, including the 3 pages of drawings.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/117,087	11/21/2008	Les Okrasa	

CONFIRMATION NO. 3741

Cosmic Descent, LLC.
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 07/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

MAILED

MAY 1 3 2009

OFFICE OF PETITIONS

In re Application of Hart et al. :
Application No. 61/117,313 : Decision on Petition
Filing Date: November 24, 2008 :
Attorney Docket No. PSM-227/PSSF.144267 :

This is a decision in response to the petition filed February 25, 2009.

The petition is **dismissed**.

The application was filed November 24, 2008.

The Office of Patent Examination Processing mailed a "Notice of Omitted Item(s) in a Provisional Application." The Notice stated Figures 8 and 9 of the drawings did not appear to be part of the application as filed. The Notice gave petitioner two options:

(1) File a petition contending and proving the missing items were in fact filed with the original application, or
(2) Take no action and constructively accept the application as originally filed without the missing items.

In view of the filing of the instant petition, petitioner appears to have chosen option (1) above. However, petitioner does not provide any evidence to prove Figures 8 and 9 were filed as part of the original application. In fact, petitioner states, "[I]t appears as if Figures 8 and 9 were inadvertently omitted from the uploaded electronic filing."

The Office notes a review of the Electronic Acknowledgement Receipt indicates 8 sheets of drawings were filed November 24, 2008. The file record contains 8 sheets of drawings filed November 24, 2008, and Figures 8 and 9 do not appear on any of the 8 sheets.

Based on the facts above, the petition must be dismissed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The single sheet of drawings containing Figures 8 and 9 filed on February 29, 2009, was not present in the Office on November 24, 2008. Therefore, Figures 8 and 9 are not parts of the original disclosure of the present application and will not be used to process the application.

The original application papers will include only those application papers present on the date of deposit.

The Office of Patent Examination Processing will be informed of the instant decision and will process the application with a filing date of November 24, 2008, using only the application papers filed on November 24, 2008.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAR 26 2009

OFFICE OF PETITIONS

PETER K. TRZYNA, ESQ.
P.O. BOX 7131
CHICAGO, IL 60680

In re Application of :
Jamie M. SHUSTER :
Application No. 61/117,730 : DECISION ON PETITION
Filed: November 25, 2008 : TO WITHDRAW
Attorney Docket No. SHUSTER-P1-08 : 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 27, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Peter K. Trzyna does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JAMIE M. SHUSTER
520 N. KINGS ROAD, APT. 119
WEST HOLLYWOOD, CA 90048

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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

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MAR 2 6 2009

OFFICE OF PETITIONS

In re Application of :
Tuszynski, et al. :
Application No. 61/117,745 : DECISION
Filed/Deposited: 25 November, 2008 :
Attorney Docket No. TUN-590USP :

This is a decision on the petition filed on 19 February, 2009, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition pursuant to 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 25 November, 2008.

On 9 January, 2009, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OPAP indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OPAP set a two- (2-) month period for reply.

On 19 February, 2009, Petitioner filed, *inter alia*, a petition and averred therein not that drawings were not necessary for the understanding of the subject matter sought to be patented.

Petitioner stated that the instant application contains one or more method(s) claims, and that information is evident upon review of the file.

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 25 November, 2008, without drawings, and the Office transmitted to Petitioner on 9 January, 2009, a Notice of Incomplete Application;

- Petitioner does not contest that drawings/figures were not deposited with the instant application, but avers that drawings are not necessary for an understanding of the subject matter sought to be patented.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(*Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).*)

In view of the foregoing, the Notice mailed on 9 January, 2009, hereby is withdrawn to the extent that it indicates no filing date will be granted.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 25 November, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded via credit card—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) to be processed for correction of the filing date to 25 November, 2008, with the 15 pages of specification (description, claims, and abstract) deposited on 25 November, 2008, and **no** drawings as the original disclosure.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[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] 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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ROY SCHWARTZ
21 RONARM DRIVE
MOUNTAIN LAKES, NJ 07046

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SEP 30 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Roy Schwartz :
Application No. 61/118,323 :
Filed: November 26, 2008 :
Attorney Docket No. None :

This is a decision in response to the petition, filed September 8, 2009, under the provisions of 37 CFR 1.181 (no fee) to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed December 12, 2008. The Notice set a period for reply of two (2) months and required the basic filing fee of $110 and surcharge of $25. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 13, 2009. A Notice of Abandonment was mailed on August 25, 2009.

Petitioner argues that the abandonment should be withdrawn since the filing fee was submitted on filing. In support, petitioner submits a copy of an Acknowledgement Receipt showing receipt in the USPTO on November 28, 2008 of application papers, including a provisional cover sheet and fee worksheet for provisional application No. 61/118,504. Clearly, the Acknowledgement Receipt relates to the wrong provisional application, as the present application was filed on November 26, 2008 and is assigned Application No. 61/118,323. Accordingly, the evidence submitted is insufficient to establish that the filing fee was submitted on filing.

Upon a review of the application papers of the present application, it is noted that there is no indication that the basic filing fee was submitted on filing. Further, it is clear that no reply was made to the Notice of December 12, 2008. Consequently, the application was properly held abandoned on February 13, 2009.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(a) to revive an unavoidably abandoned application or a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, instead of filing a renewed petition under 37 CFR 1.181.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

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

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/118,435	11/26/2008	Les Okrasa	

CONFIRMATION NO. 1344

Cosmic Descent, LLC
29 Belmont Ave
Enfield, CT 06082

Date Mailed: 04/06/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **10/29/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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OCT 13 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Seifert :
Application No. 61/118,599 :
Filed: November 29, 2008 :
Attorney Docket No. P0028831.00 :
For: IMPLANTABLE COIL ELECTRODES AND IMPLANTABLE MEDICAL ELECTRICAL LEADS INCLUDING THE COIL ELECTRODES

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application, mailed December 8, 2008, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on February 9, 2009. A Notice of Abandonment was mailed on August 18, 2009.

Applicant has submitted a proper reply to the December 8, 2008 Notice in the form of the $220.00 basic filing fee and a provisional application cover sheet and the $50.00 surcharge for its late filing, a proper statement of the unintentional nature of the delay in responding to the December 8, 2008 Notice, and the $1,620.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 16 2009

OFFICE OF PETITIONS

Kelley Drye & Warren, LLP
400 Altlantic Street, 13th Floor
Stamford, CT 06901

In re Application of	:	
Richard H. Selinfreund	:	
Application No. 61/118,909	:	DECISION ON
Filed: December 1, 2008	:	PETITION TO WITHDRAW
Attorney Docket No. VTI-136(P)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Hans-Peter G. Hoffmann: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
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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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard H. Selinfreund	:	
Application No. 61/118,909	:	CORRECTED DECISION ON
Filed: December 1, 2008	:	PETITION TO WITHDRAW
Attorney Docket No. VTI-136(P)	:	FROM RECORD
	:	

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Marvin R. Wachs: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Kelley Drye & Warren, LLP
400 Altlantic Street, 13th Floor
Stamford, CT 06901

In re Application of :
Richard H. Selinfreund :
Application No. 61/118,909 : DECISION ON
Filed: December 1, 2008 : PETITION TO WITHDRAW
Attorney Docket No. VTI-136(P) : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 30, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Marvin R. Wachs: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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. Since there is no address of record for the inventor in this application, the address of record will remain the same. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents and a Statement under 37 CFR 3.73(b) must be submitted.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Verification Technologies, Inc.
25 Middlesex Turnpike, Unit 14
P.O. Box 94
Essex, CT 06426

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Zachary Vaughn Douglas
11922 Pine Mountain Ct.
Rancho Cucamonga CA 91739

MAILED

MAR 17 2010

OFFICE OF PETITIONS

In re Application of
Zachary V. DOUGLAS
Application No. 61/119,550
Filed: December 3, 2008

: DECISION ON PETITION

This is a decision on the petition filed December 22, 2009, in the above-identified application.

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1620. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

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 concerning this decision should be directed to Olisa Anwah at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

David A. Bucel
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Apr-10

ZACHARY VAUGHN DOUGLAS
11922 PINE MOUNTAIN CT.
RANCHO CUCAMONGA CA 91739

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of :
Zachary Vaughn Douglas :
Application Number: 61/119,598 : ON PETITION
Filing Date: December 3, 2008 :
For: RECEPTACLE FOR ELECTRICAL, :
MECHANICAL, OR ELECTRONIC :
CONNECTIVITY THAT WILL AID OR :
ALLOW THE CONNECTION OF :
ELECTRICAL, MECHANICAL, OR :
ELECTRONIC WIRES OR CABLES :
USING MAGNETS OR ELECTRONIC :
MAGNETS OR AN ELECTROMAGNETIC :
FIELD :

This is a decision on the petition under 37 CFR 1.137(a), filed on December 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on February 16, 2009, for failure to timely file a response to the Notice to File Missing Parts of Provisional Application(Notice) mailed on December 15, 2008, which set a two (2)-month period for reply. No extensions

of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 26, 2009.

Petitioner asserts unavoidable delay in that the Notice mailed December 15, 2008, was never received.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1), (2) and (3) above.

As to item (1):

The required reply has not been received in the USPTO. A copy of the Notice to File Missing Parts of Provisional Application mailed December 15, 2008, is enclosed for your convenience.

As to item (2):

The required petition fee for the filing of the above petition under the provisions of 37 CFR 1.137(a) is $270.00 under the small entity status.

As to item (3):

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."

reliable employees, the response is not timely received in the Office.[2]

The petition must be dismissed because petitioner has not provided a copy of the record(s) used where the non-received Office action would have been entered had it been received.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after December 15, 2008; the period when he would have received the Office action (Notice mailed December 15, 2008).

If petitioner can provide a showing, as described above, that the Notice to File Missing Parts mailed on December 15, 2008, was not received, petitioner should file a renewed petition under 37 CFR 1.137(a), accompanied by such proof of nonreceipt of the Notice to File Missing Parts mailed on December 15, 2008.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[3] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Id.

advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4]

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[5] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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[4] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[5] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/64
Copy of the Notice to File Missing Parts of Provisional Application mailed December 15, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/119,598	12/03/2008	Zachary Vaughn Douglas	

CONFIRMATION NO. 5416

Zachary Vaughn Douglas
11922 Pine Mountain Ct.
Rancho Cucamonga, CA 91739

FORMALITIES LETTER

OC000000033541872

Date Mailed: 12/15/2008

NOTICE TO FILE MISSING PARTS OF PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

Filing Date Granted

An application number and filing date have been accorded to this provisional application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The provisional application cover sheet under 37 CFR 1.51(c)(1), which may be an application data sheet (37 CFR 1.76), is required identifying:
  - either city and state, or city and foreign country, of the residence of each inventor.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee or cover sheet) as set forth in 37 CFR 1.16(g) of **$25** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- **$25** Surcharge.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/nprasasouk/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $_____(37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $_____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom 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 individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public 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
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524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR MI 48104

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
PERRIN, Steven et al. :
Application No. 61/120,121 : DECISION ON PETITION
Filed: December 05, 2008 : TO WITHDRAW
Attorney Docket No. **13880-003** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by William Boudreaux on behalf of all attorneys of record who are associated with customer No. 80711. All attorneys/agents associated with the Customer Number 80711 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Steven Perrin at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **STEVEN PERRIN**
100 NORTHERN BLVD.
NEWBURY MA 01951

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

MAILED

SEP 10 2009

OFFICE OF PETITIONS

In re Application of :
Williams et al. :
Application No. 61/120,657 : DECISION
Filed: December 8, 2008 : ON PETITION
Atty Docket No. RWM-100USP :

This is in response to the "PETITION PURSUANT TO 37 C.F.R. SECTION 1.53(e)," filed March 19, 2009.

Application papers in the above-identified application were deposited on December 8, 2008. However, on January 23, 2009, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, applicant timely filed the instant petition. Citing MPEP §601.01(f), applicant submits that the application does not require drawings for the understanding of the invention as the application contains method and composition claims, none of which require drawings for an understanding of the subject matter sought to be patented in this application. Applicant

35 U.S.C. 111(b)(4) provides that:

> The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, it is the practice of the Office to treat an application that contains at least one process or method (or composition) claim as an application for which a drawing is not

necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). MPEP § 601.01(f).

A review of the original application papers filed December 8, 2008, reveals that they contained at least one method (and composition) claim. Thus, the application, containing a specification and at least one claim was complete within the meaning of 37 CFR §1.53(b), and entitled to a filing date of December 8, 2008.

Accordingly, the petition is granted to the extent that the provisional application will be accorded the December 8, 2008 filing date with no drawings as a part of the original disclosure of the application.

However, in regards to withdrawing the Notice, MPEP §601.01(f) also states that:

> ...a provisional application having at least some disclosure, directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

Given the basis for granting the petition, the petition fee is being refunded.

This application is being forwarded to the Office of Patent Application Processing for:

- **Correction of the filing date to December 8, 2008**; and

- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding any missing items or fees owed, and other information in due course from the Office of Patent Application Processing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

E I DU PONT DE NEMOURS AND
COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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FEB 02 2010

In re Application of :
Jacob Lahijani :
Application No. 61/120,658 : DECISION
Filed: December 8, 2008 : ON PETITION
Atty Docket No. FL0487USPRV1 :

This is in response to the "RESPONSE TO NOTICE OF INCOMPLETE PROVISION APPLICATION FILE UNDER 37 CFR 1.53(C)," filed March 20, 2009.

Application papers in the above-identified application were deposited on December 8, 2008. However, on January 21, 2009, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application," stating that the application had not been accorded a filing date because the application was deposited without drawings.

In response, applicant timely filed the instant petition. The required $400 petition fee has been charged to petitioner's Deposit Account, as authorized. Applicant contends that the description of the drawings is sufficient on their own and thus the drawings are not necessary to understanding the subject matter for patenting.

A review of the specification reveals that it refers to drawing figures, but no drawings were in the application-as-filed. 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). See MPEP 601.01(f). The instant application does not contain such claims. Thus, it was proper for the Office to mail a Notice of Incomplete Provisional Application. Nonetheless, in view of petitioner's contention that drawings are not necessary, it is concluded that this provisional application is entitled to a filing date.

In view thereof, the petition is **GRANTED** to the extent that the provisional application is accorded a filing date of December 8, 2008 with no drawings present in the application.

The petition was not necessitated by any error on the part of the Office. The petition fee will not be refunded.

The Office of Patent Application Processing has been advised of this decision. The Office of Patent Application Processing will **correct the filing date to December 8, 2008**, with "0" drawings present in the application.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from the Office of Patent Application Processing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK DAVID FOX, ESQ.
588 SUTTER STREET
SUITE 555
SAN FRANCISCO CA 94102

COPY MAILED
FEB 17 2010

In re Application of :
Daniel Michael Doulton :
Application No. 61/121,905 : DECISION ON PETITION
Filing Date: December 11, 2008 :
Attorney Docket No. SVVoxLinks :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 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 Provisonal Application (Notice), mailed December 29, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 2, 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 provisional cover sheet and surcharge, (2) the petition fee of $810 (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as attorney of record regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Office of Patent Application Processing.

JoAnne Burke
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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Jongedijk :
Filed: December 12, 2008 : ON PETITION
Application No. 61/122,024 :
Dkt. No.: J0242.70000US00 :

This is a decision on the petition filed January 22, 2009. This matter is being treated under 37 CFR 1.53(e)(2) to accord the above-identified application a filing date of December 12, 2008.

The petition is **GRANTED**.

The application was submitted January 12, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed January 5, 2009. The Notice indicated the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113.

Petitioner argues that drawings are not necessary for an understanding of the invention.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that

drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

The same practice has been followed in composition applications.

A review of the official file reveals that the instant application includes at method claims and composition claims. As it is USPTO practice to treat a provisional application that contains at least some disclosure of a method or a composition as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of December 12, 2008. Thus, the instant petition is **unnecessary** as the instant application is otherwise entitled to a filing date under 37 CFR 1.53(c). Accordingly, the Notice is withdrawn.

The application will be processed with only the papers present on December 12, 2008, without drawings as part of the original disclosure.

No fee is due in connection with this matter. A refund of $400.00 will issue in due course.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of December 12, 2008 using only the papers present on that day and without entry of any drawings into the record.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/122,446	12/15/2008	Les Okrasa	

CONFIRMATION NO. 8693

Cosmic Descent, LLC.
Box 249
Enfield, CT 06082

Date Mailed: 03/24/2010

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3) TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **11/30/2009,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a non-provisional application must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application and be filed prior to the earliest of: abandonment of the provisional application filed under 37 CFR 1.53(c) or expiration of twelve months after the filing date of the provisional application filed under 37 CFR 1.53(c). The present request is not grantable because:

It is not accompanied by the fee required by 37 CFR 1.17(i).

It was received after the abandonment of the provisional application.

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the items noted above.

Any inquiries related to this decision should be directed to the Application Assistance Unit at (571) 272-4000, or (571) 272-4200, or 1-888-786-0101.

A copy of this notice MUST be returned with the reply.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLARK HILL, P.C.
500 WOODWARD AVENUE, SUITE 3500
DETROIT MI 48226

COPY MAILED

JUN 16 2008

In re Application of	:	
Ellis et al.	:	
Application No. 61/123,767	:	DECISION GRANTING
Filed: April 11, 2008	:	PETITION
Attorney Docket No. 19350-121968	:	

This is a decision on the petition filed May 2, 2008, requesting that the above-identified application be accorded a filing date of April 11, 2008, rather than the presently accorded date of April 12, 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 April 11, 2008, pursuant to 37 CFR 1.10. The copy of the Express Mail label No. EL963861862US bears a handwritten "date-in" of April 12, 2008. Petitioner alleges 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 April 11, 2008. The same Express Mail label number appears on the original application transmittal letter of record.

With the present petition, petitioner submitted a United States Postal Service Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post, which indicates that a USPS employee accepted a package bearing Express Mail label No. EL963861862US on April 11, 2008, as evidenced by his signature. Accordingly, the evidence presented is convincing that the Express Mail package was entrusted to the USPS on April 11, 2008. Therefore, the petition is **granted.** The application will be accorded a filing date of April 11, 2008.

This application file is being referred to the Office of Patent Legal Administration for correction of the filing date to April 11, 2008, and for issuance of a corrected filing receipt.

Inquiries relating to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Warn Partners, P.C.
Suite 140
691 N. Squirrel Rd.
Auburn Hills MI 48326

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Stagg, et al. :
Application No. 61/124,206 : DECISION GRANTING
Filed: April 15, 2008 : PETITION
Attorney Docket No. DKT07138 :

This is a decision on the petition filed August 28, 2008, requesting that the above-identified application be accorded a filing date of April 15, 2008, rather than the presently accorded date of April 8, 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 April 15, 2008 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. ED825944674US bears a handwritten "date-in" of April 8, 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 April 15, 2008. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on April 15, 2008, as shown by the USPS Track/Confirm printout. Accordingly, this application is entitled to a filing date of April 15, 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 Initial Patent Examination (OIPE) for **correction of the filing date to April 15, 2008 and for issuance of a corrected filing receipt**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3205. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Philip Warn
P.O. Box 70098
Rochester Hills, MI 48307

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 BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202-4108

COPY MAILED

NOV 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Lohithaswa Thimmappa et al	:	
Application No. 61/124,243	:	DECISION DISMISSING
Filed: April 15, 2008	:	PETITION
Attorney Docket No. 084554-9305-00	:	

This is a decision on the petition filed August 8, 2008, entitled "PETITION UNDER 37 CFR §§ 1.10 AND 1.53(c) FILING OF CORRESPONDENCE BY EXPRESS MAIL" which is being properly treated under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of April 14, 2008, rather than the presently accorded date of August 15, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to the Office of Patent Application Processing with the presently accorded filing date of August 15, 2008.

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS.

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the

deposit of the correspondence as "Express Mail." Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log. Conversely, evidence created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail") cannot be accepted under the terms of the rule.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on April 14, 2008, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by copies of: United States Postal Tracking Receipt, a complete copy of the documents filed in Express Mail No. EV320607606US and declarations of Thomas J. Otterlee, Robyn H. O'Neill and Joseph Rohan.

A grantable petition under 37 CFR 1.10(d) must include:

> (1) The filing of a petition promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The placement of the "Express Mail" number on the mailing label of the paper(s) or fee(s) that constitutes the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) A showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition lacks items (1 and 3).

Section 1.10(d) permits the Office to correct a USPS "date-in" error when the correspondence is deposited in an Express Mail drop box prior to the last scheduled pickup of the day; that is, the time clearly marked on the Express Mail drop box, including when the box will be cleared for the last time on the date of deposit. The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date in," or other official USPS notation, on the "Express Mail" mailing label. Note that the correspondence must be entrusted either to a postal service employee or an Express Mail drop box for the correspondence to have been deposited as Express Mail Post Office to Addressee service of the USPS within the meaning of 37 CFR 1.10(d). *See* Nitto Chemical Industry Co. Ltd. v. Comer, 39 USPQ 1778, 1781-82 (D.D.C. 1994). That is, consignment of Express Mail correspondence to a first class mail bin at the USPS does not properly entrust the correspondence to the custody of the USPS for purposes of 37 CFR 1.10.

The applicant does not have evidence from the USPS that the Express Mail envelope was deposited on April 14, 2008, and has no contemporaneous evidence that came into being within one day and after deposit of the application with the USPS.

The statements with the petition do not indicate that the envelope was deposited with the USPS on April 14, 2008. The declarations state that the normal practice of the firm is to have a USPS employee directly come to the attorney's office and pick up the packages and take them to the USPS. There is no way to corroborate when the packages are accepted by the USPS until they are date-stamped by the USPS and a copy of the Express mail label returned to the applicant.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile:
(571) 273-8300
Attn: Office of Petitions

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Marjorie Lou Walker
35505 Vista Del Luna
Rancho Mirage CA 92270

COPY MAILED

AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Marjorie Lou Walker	:	
Application No. 61/124,273	:	
Filed: April 16, 2008	:	DECISION ON PETITION
Title: ARTFULLY YOURS TOOTHPASTE DISPENSER	:	PURSUANT TO 37 C.F.R. § 1.182

This is a decision on the petition filed June 9, 2008, which is being treated as a petition pursuant to 37 C.F.R. § 1.182.

The petition is **DISMISSED**.

On April 16, 2008, this application was deposited. On April 30, 2008, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Provisional Application - Filing Date Granted (notice)", advising applicant that Figures 4 and 5 appeared to have been omitted. The notice set a two-month period for response.

On March 3, 2008, Petitioner submitted this petition, along with the petition fee and an assertion that Figures 4 and 5 had been inadvertently omitted on filing. It does not appear that a copy of these missing figures were included with this petition.

Petitioner is advised that for provisional applications, the option to take the later filing date, *i.e.*, the date of submission of the omitted page(s) or drawing(s, is **not available**. See MPEP 601.01(d).[1]

1 " ... in view of the relatively low filing fee for provisional applications, and the USPTO's desire to minimize the processing of provisional applications,

As such, this application will retain the filing date of April 16, 2008, and it is noted that Figures 4 and 5 are not present in the electronic record.

Any future attempt to present these figures via the filing of an amendment is not possible, due to the fact that provisional applications cannot be amended.[2]

If Petitioner desires to have Figures 4 and 5 considered as part of the application, Petitioner should simply file a new and complete provisional application, including these figures.

Moreover, it is noted in passing that Petitioner has set forth that she wishes to copyright a particular phrase. Copyright issues are not handled by the United States Patent and Trademark Office, but rather by the United States Copyright Office, whose website can be viewed at this location: http://www.copyright.gov/

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[3].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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the USPTO will not grant petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and accord an application filing date as of the date of such submission in provisional applications. The applicant should simply file a new completed provisional application."

2 See 37 C.F.R. § 1.53(c). See also M.P.E.P. § 601.01(b).

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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Paper No.

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

COPY MAILED
DEC 22 2008

In re Application of :
McKelvey et al. : DECISION ON PETITION
Application No. 61/124,662 :
Filed: April 21, 2008 :
Atty Docket No. MRL-DOB-00004 :
-US-PSP :

This is a decision on the "PETITION FOR CORRECTED FILING DATE UNDER 37 C.F.R. 1.10," filed July 14, 2008, requesting that the above-identified application be accorded a filing date of April 18, 2008, rather than the presently accorded filing date of April 21, 2008.

Petitioner maintains that the above-identified application was deposited with the Office by way of the "Express Mail Post Office to Addressee" service of the United States Postal Service on April 18, 2008, under Express Mail mailing label No. EV835857056US, pursuant to § 1.10(a). Petitioner argues that the USPS employee physically received the Express Mail package on April 18, 2008 as shown by the date and his signature on the USPS pickup statement. However, he failed to fill-in the date-in information on the label. Petitioner points out that the other application shown to have been picked up on that date by the pickup statement was accorded a filing date of April 18, 2008. In support of the petition, petitioner submits a true copy of the Express Mail mailing label and of the USPS pickup statement.

37 CFR 1.10(d) provides that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express

> Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition was filed promptly within the meaning of §1.10(d)(1), as it was filed within two months of the mailing date of the filing receipt. A review of the application papers presently accorded a filing date of April 21, 2008 reveals that the "Express Mail" mailing label No. EV835857056US is present on the provisional application cover sheet. Further, the cover sheet identifies the papers that constitute the provisional application filed therewith. Thus, it is concluded that the number was placed on the papers that constitute the correspondence prior to mailing.

The copy of the "Express Mail" Post Office to Addressee mailing label omits the "date-in." Whereas, the USPS Pickup Service Statement identifies the Express Mail packages being picked up, including this "Express Mail" mailing, and is signed by the USPS employee with a date of pickup of April 18, 2008. This showing has been considered, and it is concluded that it establishes, to

the satisfaction of the Director, that the requested filing date of April 18, 2008 is the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day.

In view thereof, the petition is **GRANTED**.

No petition fee is required and none has been charged.

This application is being sent to the Office of Patent Application Processing for **correction of the filing date to April 18, 2008** and **mailing of a corrected filing receipt**.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/742,044	04/30/2007	William Bliss	BP5398.1

CONFIRMATION NO. 4151

CONVERSION REQUEST

51472
GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

OC000000029569523

Date Mailed: 04/24/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/22/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,794.** The filing receipt for the provisional application number will be mailed to the applicant by OIPE in due course.

JANICE L TIPPETT
Office of Initial Patent Examination
(571) 272-4000, or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/838,882	08/15/2007	Jon R. Davis	1702.112.03

CONFIRMATION NO. 7504

64935
TILLMAN WRIGHT, PLLC
P.O. BOX 471581
CHARLOTTE, NC 28247

CONVERSION REQUEST

OC000000029578364

Date Mailed: 04/30/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/23/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,795.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/975,054	10/17/2007	Qinghong Lu	AM101869 L1

CONFIRMATION NO. 8045

CONVERSION REQUEST

25291
WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

Date Mailed: 04/30/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/16/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,796.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/876,977	10/23/2007	Sidney Edward Martin III	0341638.00009

CONFIRMATION NO. 7175

CONVERSION REQUEST

35602
Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington, DC 20006-1600

OC000000029663656

Date Mailed: 04/30/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,797.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/876,998	10/23/2007	Sidney Edward Martin III	0341638.00008

CONFIRMATION NO. 7204

CONVERSION REQUEST

35602
Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington, DC 20006-1600

OC000000029665039

Date Mailed: 04/30/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,798.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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
12/000,776	12/17/2007	Fabien Sauter-Starace	11016-0093

CONFIRMATION NO. 6071

22902
CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON, DC 20005

CONVERSION REQUEST

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/14/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,799.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/807,147	05/24/2007	George W. Ousler III	36130-504 CIP

CONFIRMATION NO. 5038

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON, MA 02111

CONVERSION REQUEST

OC000000029699413

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/02/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,800.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 25 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:
Ousler et al.	:
Serial No.: 11/807,147	: CONVERSION TO PROVISIONAL
Filed: May 24, 2007	:
Attorney Docket No.: 36130-504 CIP	:

This is in response to applicants' request, filed January 2, 2008, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

Copied from 11807147 on 05/01/2008

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/834,555	08/06/2007	Daniel Gelbart	111129.408

CONFIRMATION NO. 9953

CONVERSION REQUEST

500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

OC00000002970171

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/17/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,801.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/850,134	09/05/2007	Sidney Edward Martin III	0341638.00012

CONFIRMATION NO. 6973

CONVERSION REQUEST

35602
Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington, DC 20006-1600

OC00000029700623

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/02/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,802.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/870,787	10/11/2007	Bruce Hammond	38-21(54792)B

CONFIRMATION NO. 5545

CONVERSION REQUEST

27161
MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

OC000000029701026

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/03/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,803.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
11/890,030	08/02/2007	George W. Ousler III	36130-504 CIP3

CONFIRMATION NO. 6587

CONVERSION REQUEST

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000029701297

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/02/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,804.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APR 30 2008

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of :
Ousler et al. : CONVERSION TO PROVISIONAL
Serial No.: 11/890,030 :
Filed: August 2, 2007 :
Attorney Docket No.: 36130-504 CIP3:

This is in response to applicants' request, filed January 2, 2008, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

Copied from 11890030 on 05/01/2008

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UNITED STATES DEPARTMENT OF COMMERCE
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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
11/971,993	01/10/2008	Sidney Edward Martin III	0341638.00015

CONFIRMATION NO. 5916

CONVERSION REQUEST

35602
Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington, DC 20006-1600

OC00000029701586

Date Mailed: 05/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/02/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,805.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/006,257	12/31/2007	Paul Unbehagen	19012ROUS01U

CONFIRMATION NO. 5753

CONVERSION REQUEST

34645
Anderson Gorecki & Manaras, LLP
Attn: John C. Gorecki
P.O BOX 553
CARLISLE, MA 01741

OC00000029701747

Date Mailed: 05/02/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/28/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,806.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/985,880	11/19/2007	Abraham S. Hoppenstein	655012000100

CONFIRMATION NO. 8832

CONVERSION REQUEST

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/05/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **02/07/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,807.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/923,718	10/25/2007	Sidney Edward Martin III	

CONFIRMATION NO. 1021

73716
Northeast Maritime Institute
32 Washington St.
Fairhaven, MA 02719

CONVERSION REQUEST

Date Mailed: 05/05/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/07/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,808.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/683,946	03/08/2007	Peter M. Eisenberg	63017US002 (1004-271US01)

CONFIRMATION NO. 1820

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CONVERSION REQUEST

Date Mailed: 05/07/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/24/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,809.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:
Eisenberg, Peter M. et al
Serial No.: 11/683,946
Filed: March 8, 2007
Docket: 63017US002 (1004-271US01)
Title: RULE-DRIVEN SPECIMEN TRACKING AND MANAGEMENT

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Oct. 24, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Oct. 24, 2007 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 50-1778 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 11683946 on 05/06/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/976,723	10/26/2007	Max Otto Henri Rasmussen	P72251US0

CONFIRMATION NO. 3238

CONVERSION REQUEST

136
JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

OC00000029799126

Date Mailed: 05/07/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/09/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,810.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/829,885	07/28/2007	Tom Murphy	32487-US (2558.008US1)

CONFIRMATION NO. 1952

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

CONVERSION REQUEST

OC000000029892133

Date Mailed: 05/12/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,811.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/829,884	07/28/2007	Tom Murphy	2558.010US1

CONFIRMATION NO. 1949

CONVERSION REQUEST

54120
RESEARCH IN MOTION
ATTN: GLENDA WOLFE
BUILDING 6, BRAZOS EAST, SUITE 100
5000 RIVERSIDE DRIVE
IRVING, TX 75039

OC000000029892456

Date Mailed: 05/12/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,812.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/829,872	07/27/2007	Mike Rao	32492-US (2558.013US1)

CONFIRMATION NO. 1919

72985
Research in Motion Corp/SLW
102 Decker Court
Suite 180
Irving, TX 75062

CONVERSION REQUEST

Date Mailed: 05/12/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/31/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,813.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/961,347	12/20/2007	Hali Wang	ZMOB-26/ZI-00071

CONFIRMATION NO. 6113

37696
WOOD, HERRON & EVANS, LLP (ZIMMER)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

CONVERSION REQUEST

Date Mailed: 05/12/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **12/21/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,814.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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
12/100,904	04/10/2008	An Mei Chen	080559P2

CONFIRMATION NO. 7134

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

CONVERSION REQUEST

OC000000029893444

Date Mailed: 05/13/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/09/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,815.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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
12/015,092	01/16/2008	JEAN-FRANCOIS TANGUAY	765/14421.11

CONFIRMATION NO. 1743

CONVERSION REQUEST

AIR MAIL
25545
GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, QC H3A 3H3
CANADA

Date Mailed: 05/13/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/01/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,816.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL QC H3A 3H3 CA CANADA

In re Application of:
TANGUAY, JEAN-FRANCOIS
Serial No.: 12/015,092
Filed: Jan. 16, 2008
Docket: 765/14421.11
Title: IMPLANTABLE DEVICES FOR PROMOTING REENDOTHELIALIZATION AND METHODS OF USE THEREOF

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field May 1, 2008 under 37 CFR 1.53 (C) (2).

The petition filed on May 1, 2008 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was charged against the Deposit Account # 07-1742 in accordance with 37 CFR 1.17(q) as authorized in the petition.

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 12015092 on 05/12/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/777,194	07/12/2007	Jeroen Hugenholtz	069818-8600

CONFIRMATION NO. 8111

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

CONVERSION REQUEST

Date Mailed: 05/12/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/08/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,817.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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MAY 09 2008

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Hugenholtz et al. : CONVERSION TO PROVISIONAL
Serial No.: 11/777,194 :
Filed: July 12, 2007 :
Attorney Docket No.: 069818-8600:

This is in response to applicants' request, filed May 8, 2008, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

Copied from 11777194 on 05/12/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/888,273	07/31/2007	Eric Goldfarb	83529.0024.D1

CONFIRMATION NO. 3420

CONVERSION REQUEST

76663
STEPTOE & JOHNSON - ACCLARENT, INC.
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES, CA 90067

Date Mailed: 05/20/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/31/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,818.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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STEPTOE & JOHNSON - ACCLARENT, INC.
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

In re Application of:
Goldfarb, Eric et al
Serial No.: 11/888,273
Filed: Jul. 31, 2007
Docket: 83529.0024.D1
Title: ENDOSCOPIC METHODS AND DEVICES FOR TRANSNASAL PROCEDURES

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Oct. 31, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Oct. 31, 2007 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was paid in accordance with 37 CFR 1.17(q).

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 11888273 on 05/19/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/821,336	06/22/2007	Joshua Makower	EXPL-001CON6

CONFIRMATION NO. 5859

CONVERSION REQUEST

36154
LAW OFFICE OF ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE, CA 94086

Date Mailed: 05/20/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/31/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,819.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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LAW OFFICE OF ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE CA 94086

In re Application of:
Makower, Joshua et al
Serial No.: 11/821,336
Filed: Jun. 22, 2007
Docket: EXPL-001CON6
Title: DEVICES AND METHODS FOR TREATMENT OF OBESITY

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Oct. 31, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Oct. 31, 2007 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was paid in accordance with 37 CFR 1.17(q).

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 11821336 on 05/19/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/820,411	06/18/2007	Joshua Makower	EXPL-001CON4

CONFIRMATION NO. 3189

CONVERSION REQUEST

36154
LAW OFFICE OF ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE, CA 94086

Date Mailed: 05/20/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/31/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,820.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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LAW OFFICE OF ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE CA 94086

In re Application of:
Makower, Joshua et al
Serial No.: 11/820,411
Filed: Jun. 18, 2007
Docket: EXPL-001CON4
Title: DEVICES AND METHODS FOR TREATMENT OF OBESITY

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Oct. 31, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Oct. 31, 2007 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was paid in accordance with 37 CFR 1.17(q).

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 11820411 on 05/19/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/974,225	10/12/2007	Brian B. Williams	GGM01

CONFIRMATION NO. 5701

CONVERSION REQUEST

24343
LAW OFFICES OF KEVIN ROE
155 E. CAMBELL AVE
SUITE 203
CAMPBELL, CA 95008

OC00000030039709

Date Mailed: 05/20/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **01/23/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,821.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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LAW OFFICES OF KEVIN ROE
155 E. CAMBELL AVE
SUITE 203
CAMPBELL CA 95008

In re Application of:
WILLIAMS, BRIAN B. et al
Serial No.: 11/974,225
Filed: Oct. 12, 2007
Docket: GGM01
Title: ENERGY GENERATION FROM COMPRESSED FLUIDS

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Jan. 23, 2008 under 37 CFR 1.53 (C) (2).

The petition filed on Jan. 23, 2008 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was paid in accordance with 37 CFR 1.17(q).

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 11974225 on 05/19/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/986,287	11/19/2007	Paul G. Allen	0606-028-001-000000

CONFIRMATION NO. 1125

CONVERSION REQUEST

Searete LLC
Suite 110
1756-114th Ave.
Bellevue, WA 98004

Date Mailed: 05/20/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **04/21/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,822.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/607,774	11/30/2006	Marilyn Murphy	2244.071US1 / US-0098.02

CONFIRMATION NO. 9266

68349
SCHWEGMAN, LUNDBERG & WOESSNER/USAA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

CONVERSION REQUEST

OC00000030197944

Date Mailed: 05/29/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **07/27/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,823.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/820,122	06/18/2007	David A. Francko	21122.0021U1

CONFIRMATION NO. 3281

CONVERSION REQUEST

23859
NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

OC000000030519880

Date Mailed: 06/17/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/29/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,824.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

In re Application of	:
Francko et al.	: CONVERSION TO PROVISIONAL
Serial No.: 11/820,122	:
Filed: July 18, 2007	:
Attorney Docket No.: 21122.0021U1:	

This is in response to applicants' request, filed May 29, 2008, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/552,356	10/24/2006	Erh-Kun Lai	MXIC 1710-1

CONFIRMATION NO. 1922

CONVERSION REQUEST

46353
MACRONIX
C/O HAYNES BEFFEL & WOLFELD LLP
P. O. BOX 366
HALF MOON BAY, CA 94019

OC000000030619937

Date Mailed: 06/23/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **03/01/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,825.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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MACRONIX
C/O Haynes Beffel & Wolfeld LLP
P.O. Box 366
Half Moon Bay, CA 94019

JUN 17 2008

In re Application of Lai et al. :
Application no. 11/552,356 : DECISION ON PETITION
Filed: 24 October 2006 :
Attorney's Docket No. MXIC 1710-1 :

This is a decision on the petition filed under 37 C.F.R. §1.53(C)(2), filed 1 March 2007, to convert the above identified application to a provisional application under 35 U.S.C. § 111 (b) and 37 C.F.R. § 1.53 (c). The petition is before the Director of Technology Center 2800 for review.

The petition is **GRANTED**.

The Office action mailed 1 May 2008 is hereby vacated and withdrawn.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing as a PROVISIONAL application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c), including the assignment of a new provisional application number.

The new provisional application number will be communicated to applicant by OIPE in due course.

Any inquiry regarding this decision should be directed to Carl Whitehead, Jr., Supervisory Patent Examiner at (571) 272-1702.

Richard Seidel, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components

Copied from 11552356 on 06/23/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/072,488	02/25/2008	Hilda Eunice Gibson	

CONFIRMATION NO. 4644

Hilda Eunice Gibson
3008 Imperial Drive
Laredo, TX 78045

CONVERSION REQUEST

OC000000030764002

Date Mailed: 07/01/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/16/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,826.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/769,492	06/27/2007	Vladimir Odnoblyudov	093350-0401

CONFIRMATION NO. 4897

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

CONVERSION REQUEST

OC000000031228120

Date Mailed: 07/28/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **06/04/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,827.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
P.O. Box 80278
San Diego, CA 92138-0278

In re Application of:	:	
Vladimir Odnoblyudov et al.	:	
Serial No.: 11/769,492	:	DECISION ON PETITION
Filed: June 27, 2007	:	TO CONVERT APPLICATION
Attorney Docket No.: 093350-0401	:	
Title: GROWTH OF INGANP ALLOY ON GAP SUBSTRATES	:	

This is a decision on the petition under 37 C.F.R. § 1.53(c)(2), filed June 4, 2008, to convert the above-identified non-provisional application under 37 C.F.R. § 1.53(b) to a provisional application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c)(2).

The petition is **GRANTED.**

The application is being returned to the Office of Patent Application Processing (OPAP) for further processing as a PROVISIONAL application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c)(2), including the assignment of a new provisional application number.

The new provisional application number will be communicated to the applicant by OPAP in due course.

Any inquiry regarding this decision should be directed to Edward Westin, Quality Assurance Specialist, at (571) 272-1638.

Janice A. Falcone

/JAF/ Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Copied from 11769492 on 07/28/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/070,505	02/19/2008	Thomas Robotham	4276.1000-000

CONFIRMATION NO. 1436

CONVERSION REQUEST

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

OC000000031229581

Date Mailed: 07/28/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **05/27/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,828.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/871,594	10/12/2007	Christy Mutchler	0105977.0552820

CONFIRMATION NO. 7109

CONVERSION REQUEST

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

OC000000031245690

Date Mailed: 07/30/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/12/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,829.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/848,447	08/31/2007	Thomas I. Insley	63292US002

CONFIRMATION NO. 3819

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

CONVERSION REQUEST

OC000000031677434

Date Mailed: 08/21/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **10/10/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,830.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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JUN 23 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of:
INSLEY, THOMAS I., et al.
Serial No.: 11/848,447
Filed: August 31, 2007
For: **DETERMINING CONDITIONS OF PERSONAL PROTECTION ARTICLES AGAINST AT LEAST ONE CRITERION**

DECISION ON PETITION
TO CONVERT APPLICATION

This is a decision on the request for conversion which is being treated as a petition under 37 C.F.R. § 1.53(c)(2), filed October 10, 2007, to convert the above-identified application to a provisional application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c)(2).

The petition is **GRANTED.**

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing as a PROVISIONAL application under 35 U.S.C. § 111(b) and 37 C.F.R. § 1.53(c), including the assignment of a new provisional application number.

The new provisional application number will be communicated to the applicant by OIPE in due course.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications
(571) 272-3068

Copied from 11848447 on 08/20/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/109,475	04/25/2008	Jan Salloum	SWDXP0101US

CONFIRMATION NO. 3542

23908
RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

CONVERSION REQUEST

OC000000031677602

Date Mailed: 08/20/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **08/13/2008,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,831.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/833,310	08/03/2007	Joseph Catanese III	83455.0004.D2

CONFIRMATION NO. 7661

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC000000031773274

Date Mailed: 08/27/2008

DECISION GRANTING REQUEST TO CONVERT TO PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(2) received in the U.S. Patent and Trademark Office on **11/05/2007,** to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c).

The request is granted.

The application will be processed in the Office of Patent Application Processing (OPAP) as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including the assignment of a new provisional application number.

The provisional application number is **61/124,832.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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STEPTOE & JOHNSON LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

8/5/08

In re Application of:
CATANESE, JOSEPH III et al.
Serial No.: 11/833,310
Filed: Aug. 3, 2007
Docket: 83455.0004.D2
Title: APPARATUS AND METHOD FOR MANIUPLATING OR RETRACTING TISSUE AND ANATOMICAL STRUCTURE

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.153(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application field Nov. 5, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Nov. 5, 2007 requests conversion to a provisional application under 37 CFR 1.53(C) (2) and includes the required petition and the required fees as set forth in 37 CFR 1.17(q). It was also filed within the time frames as set forth in 37 CFR 1.53 (C) (2) (i-iii).

The fee of $50.00 was paid in accordance with 37 CFR 1.17(q).

The petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

Copied from 11833310 on 08/26/2008

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EDWARDS ANGELL
PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Luesch :
Application No. 61/125,542 : DECISION
Filed/Deposited: 24 April, 2008 :
Attorney Docket No. 68814P4(49463) :

This is a decision on the petition filed on 11 August, 2008, resubmitted on 31 October, 2008, and properly considered under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

The instant application was deposited on 24 April, 2008.

On 11 June, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted (and evidence same with a copy of a date-stamped receipt card (see: MPEP §503)), or that drawings were not necessary for a filing date; or

- submit the drawings (with a new application) and accept the later date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 11 August, 2008 (and again on 31 October, 2008), Petitioner filed, *inter alia*, a petition and averred therein not that that drawings were not necessary for the understanding of the subject

matter sought to be patented, but rather that that "drawings are not necessary for a filing date." (Petitioner submits a receipt card, but that is not controlling.)

Petitioner does not state that the instant application contains one or more method(s) claims, however, that information is evident upon review of the file.

As discussed below, the presence of one or more method claims is controlling.

ANALYSIS

A search of the official file reveals that:

- the instant application was deposited on 24 April, 2008, without drawings, and the Office transmitted to Petitioner on 11 June, 2008, a Notice of Incomplete Application;

- Petitioner does not contest that drawings were not deposited with the instant application, and does not provide any other evidence of receipt of such drawings by the Office

In fact, the transmittal sheet accompanying the deposit of the application on 6 June, 2008, indicates no drawings accompanying the application on deposit.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence) (see : MPEP §601.01, and specifically MPEP §601.01(f)(A)).

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 13).

Thus, the argument of the petition is construed for the purposes of this decision to mean that drawings are not necessary for understanding of the subject matter sought to be patented, and thus for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application.

(Such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).)

In view of the foregoing, the Notice mailed on 11 June, 2008, hereby is withdrawn to the extent that it indicates no filing date will be granted.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 24 April, 2008, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded to Deposit Account 04-1105—should Petitioner later find that the petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) to be processed for correction of the filing date to 24 April, 2008, with the 34 pages of specification (description, claims, plus one unnumbered page of abstract) deposited on 24 April, 2008, and **no** drawings as the original disclosure.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 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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OFFICE OF PETITIONS

HANS-HENRIK STOLUM
24 GUEST ROAD
CAMBRIDGE CB1 2AL GB UNITED KINGDOM

In re Application of :
Hans-Henrik Kofoed Stolum :
Application No. 61/125,604 : ON PETITION
Filed: April 28, 2008 :
Title of Invention: **ENERGY STORAGE MANAGEMENT SYSTEM FOR ELECTRIC VEHICLES** :

This is a decision on the "petition to accept late partial payment of fee for provisional patent filing", filed May 4, 2009, which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

A Notice to File Missing Parts mailed May 14, 2008 required the filing of additional fees within two months (July 14, 2008) or, with up to a five month extension of time, a response could have been filed not later than December 14, 2008. No response having been filed, the application became abandoned July 15, 2008. Accordingly, a Notice of Abandonment was mailed January 21, 2009.

Petitioner argues that he failed to review the requirements of the Notice mailed May 14, 2008 and thus failed to timely reply.

Petitioner is advised that unfortunately, the lack of diligence in this matter is the reason for the abandonment, therefore, based on the facts, the holding of abandonment cannot be withdrawn and the notice of abandonment cannot not be vacated.

It is understood that petitioner is a pro se applicant, but petitioner is still responsible for the proper prosecution of his application. The format and wording of the papers filed are that of an inexperienced petitioner. In further petitioning, there are numerous resources available to petitioner, as to the others who have chosen this path of prosecution, to obtain the necessary information to properly prosecute the application before the Office. The services of a registered attorney or agent to help the petitioner understand the requirements for responding to the office action as well as the petitioning process are recommended, although not required.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RONALD SHAW
1393 OAKRIDGE DR
BUCYRUS OH 44820

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of :
Ronald Shaw :
Application No. 61/125,629 : ON PETITION
Filed: April 28, 2008 :
Title: Clearview A.K.A. Rotating Trucker's Mirror :

This is a decision on the untitled letter filed March 23, 2009, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a response to the Notice to File Missing Parts of Provisional Application, mailed May 18, 2008, which set an extendable period for reply of two (2) months for applicant to submit $30 ($5 in missing application filing fees, together with a $25 surcharge for late submission of the filing fee in full). No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no $30 fee having received, the application became abandoned on July 19, 2008. The Office mailed a Notice of Abandonment on January 21, 2009.

Petitioner argues that he did timely mail $35 (not $30 as requested in the Notice) in May of 2008. Petitioner has not offered any supporting evidence, such as a USPTO date stamped postcard receipt itemizing a timely filed response, nor has

petitioner included a copy of the alleged filed response bearing a Certificate of Mailing pursuant to 37 CFR 1.8 or an Express Mail mailing label number pursuant to 37 CFR 1.10.

If petitioner can not prove that the $30 fee was timely filed, petitioner may wish to consider reviving the abandoned application pursuant to 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently **$810** for a small entity; (3) A **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was **unintentional**. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Enclosed for petitioner's convenience is a blank copy of Form PTO/SB/64 (petition to revive based on unintentional delay).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Statement of Privacy Act (1 page)

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United States Patent and Trademark Office
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WILLIAM F. HAMROCK
50 WINTER HARBOR ROAD
KENNEBUNKPORT ME 04046

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JUL 22 2008

In re Application of :
Keller, Frank Brent :
Application No. 61/125,685 : ON PETITION
Filed: April 25, 2008 :
Attorney Docket No. KELLER-1 :

This is a decision on the petition under 37 CFR 1.182, filed, June 23, 2008, to change the name of inventor "Frank Brent Keller" to – Michael Brent Keller --.

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 complied with both (1) and (3) above. However, requirement (2) has not been met as the statement provided was not signed by the inventor setting forth *both* names. The inventor must sign under both names.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM F. HAMROCK
50 WINTER HARBOR ROAD
KENNEBUNKPORT ME 04046

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Keller, Michael Brent	:	
Application No. 61/125,685	:	ON PETITION
Filed: April 25, 2008	:	
Attorney Docket No. KELLER-1	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.182, filed September 4, 2008, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Frank Brent Keller to Michael Brent Keller.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Office of Patent Application Processing.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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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
61/125,685	04/25/2008		130	KELLER-1		

CONFIRMATION NO. 6257

CORRECTED FILING RECEIPT

WILLIAM F. HAMROCK
50 WINTER HARBOR ROAD
KENNEBUNKPORT, ME 04046

Date Mailed: 10/01/2008

Receipt is acknowledged of this provisional patent application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Brent Keller, Naples, FL;

Power of Attorney:
William Hamrock--30712

If Required, Foreign Filing License Granted: 05/09/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/125,685**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Molding assembly for use with storm panel devices

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.
61/126,290	05/02/2008	Kevin Smith	1011.P02	9075

EXAMINER

7590 05/05/2009

KEELY SCHNEITER
399 NORTH MAIN
SUITE 300
LOGAN, UT 84321

ART UNIT	PAPER NUMBER

MAIL DATE	DELIVERY MODE
05/05/2009	PAPER

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

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D. LORAN CURET
301
7800C STENTO AVE
PHILADELPHIA PA 19118

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
D. Loran CURET	:	
Application No. 61/126,666	:	DECSION ON PETITION
Filed: May 07, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed May 21, 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 July 22, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) in that the required fees noted in the Notice remain unpaid.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 61126666 Total Records Found: 2

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/19/2009	00000134	1	2453	$810.00	03/19/2009	CK
05/08/2008	00000022	1	2005	$100.00	05/07/2008	CK

Document Code: IMIS

Notice of Fee Due

Date: 05-08-08

Application Number: 61126666

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☑ Insufficient payment by check or money order.
- ☐ Insufficient funds in deposit account _____ at _____:_____ (time).
- ☐ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☑ No authorization to charge a deposit account.

Fee code(s) to be applied:	2005	105
		100
Amount in holding fee code:	1506	
	1622/2622	
	1999	

Total remaining due from applicant: 5

RAM Operator CC

Rev. 12/27/07

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DEC 10 2009

OFFICE OF PETITIONS

D. LORAN CURET
301
7800C STENTO AVE
PHILADELPHIA PA 19118

In re Application of	:	
D. Loran Curet	:	
Application No. 61/126,666	:	DECISION ON PETITION
Filing Date: May 07, 2008	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 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 May 21, 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 July 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of May 21, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

This application is being referred to the Office Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MALLOY & MALLOY
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HISTORIC CORAL WAY
MIAMI FL 33129

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Krinsky, et al. :
Application No. 61/126,667 : ON PETITION
Filed: May 6, 2008 :
Attorney Docket No. 1.687.08 :

This is regarding the communication filed July 21, 2008, which is being treated as a petition under 37 CFR 1.53(e) requesting that the Office accord the above-identified provisional application a filing date of May 6, 2008.

On May 6, 2008, applicants deposited the above-identified provisional application without drawings. On May 22, 2008, the Office mailed a Notice of Incomplete Provisional Application, indicating that the application had not been accorded a filing date because the application had been deposited without drawings, and stating that the filing date would be the date of receipt of the omitted drawings.

Applicants submit, however, that the inadvertently omitted drawing is not necessary for understanding of the subject matter sought to be patented, *(see* MPEP § 601.01 (f)), and that the written description of the invention is more than sufficient to satisfy the requirements under 35 U.S.C. § 112. In other words, the written description is sufficiently detailed, clear and concise that a person skilled in the art could make and use the disclosed invention. In view of the foregoing, Applicants respectfully request that the May 6, 2008, filing date be accorded to this provisional application.

A review of the provisional application papers deposited on May 6, 2008, reveals that the application contains composition claims. As stated in MPEP § 601.01(f), it is the practice of the USPTO to treat a provisional application that contains at least some disclosure of a composition as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which

a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application

filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

As this application contains method claims, it 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). MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed, indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the Notice of Incomplete Provisional Application was sent in error. The above-identified application may be accorded a filing date of May 6, 2008, without any drawings.

Accordingly, the petition is **granted** to the extent indicated above.

This application is being forwarded to the Office of Patent Application Processing to accord the application a filing date of May 6, 2008, with "0" sheets of drawings, and to mail a corrected filing receipt.

Any inquiries regarding to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SEP 29 2008

MALLOY & MALLOY
2800 S.W. THIRD AVENUE
HISTORIC CORAL WAY
MIAMI FL 33129

In re Application of :
Krinsky et al. :
Application No. 61/126,668 : ON PETITION
Filed: May 6, 2008 :
Atty Docket No. 1.688.08 :

This is regarding the "Submittal of Missing Parts", filed July 21, 2008, which is treated as a petition under 37 CFR 1.182 requesting that the above-identified provisional application, without drawings, be accorded a filing date of May 6, 2008.

The petition is **GRANTED**.

The application was filed on May 6, 2008, without drawings. Accordingly, on May 22, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings. The Notice allowed a period for reply of two-months from its mailing date.

On July 21, 2008, the present petition was filed. Petitioners concede the that the application was filed without drawings, but argue that "the subject matter of the application would have been understood to a person having ordinary skill in the art even without those drawings."

MPEP § 601.01(f) states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

The arguments in the petition will be construed to mean that petitioner's counsel is asserting that drawings are not necessary for a filing date in this application. Drawings will not be further considered as a part of this case.

In view of the above, the "Notice" mailed May 22, 2008, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of May 6, 2008, without drawings as a part of the original disclosure.

No petition fee is due.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to May 6, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3222.

K. A. McLaughlin

Kenya McLaughlin
Petitions Attorney
Office of Petitions

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THOMAS A. O'ROURKE
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MELVILLE NY 11747

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NOV 2 6 2008

OFFICE OF PETITIONS

In re Application of :
Mark R. Basile :
Application Number: 61/126682 : ON PETITION
Filing Date: October 22, 2008 :
Attorney Docket Number: :
bioMetrx-2 :

This is a decision on the petition filed on October 22, 2008, requesting that the above-identified provisional application be accorded a filing date of May 7, 2008.

The petition is **DISMISSED**.

On May 7, 2008, the application was deposited. The papers deposited on May 7, 2008, included a Provisional Application for Patent Cover Sheet and a Fee Transmittal Sheet

Accordingly, on August 18, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application stating that a filing date had not been accorded to the application because the specification was missing and because the application was deposited without drawings. Additionally, the title of the invention was missing from the cover sheet.

On October 22, 2008, the subject petition was filed, accompanied by a specification, two (2) sheets of drawings, and a new Provisional Application for Patent Cover Sheet including the invention title.

Petitioner asserts the application is entitled to a filing date of October 22, 2008, and request refund of the petition fee. Specifically, petitioners assert that a specification and drawings were present on filing, and include a declaration by petitioners' employee, Marcia Strain, stating, in pertinent part, that:

> On May 2, 2007 (*sic*), I personally prepared the above identified application for filing. The application had three pages of specifications and two pages of drawings. The application papers including the drawings were placed by me in an envelope.

The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no specification or drawings were among the application papers deposited on May 7, 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, while petitioners may have intended to file a complete application on May 7, 2008, the showing of record is that nothing that can be construed as a specification or drawings was filed on that date. As such, the application is not entitled to a filing date of May 7, 2008.

Further, where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, the showing of record is that no return receipt postcard was filed with the application.

Lastly, the declaration of Ms. Strain has been considered, but is not persuasive. The declaration was made over five (5) months after the events in question, and it recites Ms. Strain's recall of the preparation and filing of the application with the Office.

The application does not appear to be unusual and it is not understood why the filing of this particular application would stand out in such detail in affiant's memory, particularly in view of the fact that affiant prepared and mailed similar papers to the Office on a routine, daily basis.

As the Notice correctly stated that no specification and drawings were present on filing, the petition was not necessitated by Office error and the petition fee will not be refunded.

The application will be processed with a filing date of October 22, 2008, using the specification and drawings deposited on that date.

The application is referred to the Office of Patent Application Processing for processing with a filing date of **October 22, 2008**, using the originally deposited application papers, and the specification and drawings filed on October 22, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Thomas A. O'Rourke
Bodner & O'Rourke, LLP
Ste. 108
425 Broadhollow Road
Melville, NY 11747

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of Basile :
Application No. 61/126,707 : Decision on Petition
Filing Date: October 23, 2008 :
Attorney Docket No. bioMETRX-1 :
For: Method for Securing a Tool Box :

This is a decision on the petition filed October 23, 2008, to accord the above-identified application a filing date of May 7, 2008.

The petition is **dismissed**.

The application was deposited on May 7, 2008.

On August 18, 2008, the Office of Patent Examination Processing mailed a Notice of Incomplete Provisional Application stating in part that a specification and drawings were not present and that a filing date had not been accorded. The Notice stated, unless a petition was filed and granted, the filing date would be the date of receipt of a specification and drawings.

In response, the present petition was filed alleging the papers deposited on May 7, 2008, included:

(1) 3 pages of specification including 2 pages of claims,
(2) 2 sheets of drawings.

The evidence of record is insufficient to prove a specification and/or drawings were filed May 7, 2008.

Office records indicate petitioner mailed three different provisional applications to the Office on May 7, 2008. One of the other two applications is associated with Attorney Docket No. bioMETRX-2 and will hereafter be referred to as "Application A." The last application is not associated with an attorney docket number and will hereafter be referred to as "Application B."

Facts for Application A

The first page of the cover sheet filed in Application A stated 1 page of specification, 2 sheets of drawings, and "Preliminary Claims" are enclosed. However, Application A's file record

indicates the application papers filed May 7, 2008, consisted only of a cover sheet (2 pages), fee transmittal sheet (1 page), and Privacy Act Notice (1 page).

The fee transmittal sheet filed in Application A indicated the total length of the application papers was 2 pages which is equivalent to the length of the cover sheet.

A Notice of Incomplete Provisional Application was mailed August 18, 2008.

A petition almost identical to the petition in this case was filed October 22, 2008. The petition did not mention a petition was going to be filed in another application involving an almost identical situation.

The petition is accompanied by a declaration by Marcia Strain attesting she placed three pages of specification and two pages of drawings into an envelope with the other application papers and that she mailed the papers.

A decision dismissing the petition was mailed November 26, 2008. The decision stated the declaration of Marcia Strain submitted with the petition was insufficient to prove the application papers filed May 7, 2008, included the missing specification and drawings. The decision did not reference the existence of the instant application or Application B.

Facts for Application B

The first page of the cover sheet filed in Application B stated 1 page of specification, 2 sheets of drawings, and "Preliminary Claims" are enclosed. However, Application B's file record indicates the application papers filed May 7, 2008, consisted only of a cover sheet (2 pages), fee transmittal sheet (1 page), and Privacy Act Notice (1 page).

The fee transmittal sheet filed in Application B indicated the total length of the application papers was 2 pages which is equivalent to the length of the cover sheet.

A Notice of Incomplete Provisional Application was mailed May 20, 2008.

Petitioner did not file a response to the Notice of Incomplete Provisional Application and a Notice of Termination of Proceedings was mailed September 3, 2008.

Facts for the Instant Application

The first page of the cover sheet filed for the instant application stated 1 page of specification, 2 sheets of drawings, and "Preliminary Claims" are enclosed. However, the file record for the instant application indicates the application papers filed May 7, 2008, consisted only of a cover sheet (2 pages), fee transmittal sheet (1 page), and Privacy Act Notice (1 page).

The fee transmittal sheet filed for this application A indicated the total length of the application papers was 2 pages which is equivalent to the length of the cover sheet.

A Notice of Incomplete Provisional Application was mailed August 18, 2008.

The instant petition was filed October 23, 2008, and does not mention a petition was filed in another application involving an almost identical situation.

The petition is accompanied by a declaration by Marcia Strain attesting she placed three pages of specification and two pages of drawings into an envelope with the other application papers and that she mailed the papers.

Discussion

Petitioner bears the burden of proof. In other words, petitioner must prove the chance the Office lost the papers is more likely than the probability Marcia Strain did not include a specification and drawings with the instant application.

An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file.[1]

In this case, the declaration was made more than five months after the events at issue.

In this case, the declaration by Marcia Strain contradicts the actual content of a paper filed May 7, 2008. Specifically, the fee transmittal sheet indicated the total length of the application was 2 pages, but Strain declares the application papers included 3 sheets of specification including 2 pages of claims and 2 pages of drawings.

A comparison of the express mail label numbers listed on the cover sheet for the instant application, Application A, and Application B, indicates each number is different. Therefore, each application was mailed in a different envelope. In order to conclude each of the three applications included a specification and drawings as indicated on the cover sheet for each application, one would need to conclude Office employees happened to lose papers for all three applications processed separately and conclude the Office happened to lose the exact same number of pages and types of pages for each application.

The evidence supplied by petitioner has been considered and the Office has determined petitioner has not proven the application papers filed May 7, 2008, included the missing items.

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[1] Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996) stated,

> Plaintiff thereafter submitted three affidavits, a declaration, and copies of two pages of records from his attorney's law firm, but the Commissioner finally denied plaintiff's petition for a filing date. . . . Nothing submitted by plaintiff to the Patent and Trademark Office is corroborated by anything outside the office of the submitting counsel. . . . The decision was for the Commissioner to make, and I cannot find on the basis of the record presented to me that the Commissioner's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

The Office of Initial Patent Examination for further processing with a filing date of October 23, 2008, the date the missing parts were supplied, using the application papers filed on May 7, 2008, and the three pages of specification (including two pages of claims), two sheets of drawings, and corrected cover sheet filed October 23, 2008.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Curtis BIRNBACH :
Application No. 61/127,845 : DECISION ON PETITION
Filed: May 16, 2008 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application mailed June 5, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 6, 2008.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being

mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee of $5, the surcharge fee of $25; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/467,974 filed May 16, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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