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WARREN L. CHRISTIAN
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NOBLE, OK 73068

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In re Application of :
Warren L. Christian :
Application No. 61/128,916 : DECISION ON PETITION
Filed: May 27, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 27, 2008 and resubmitted June 23, 2008 and August 5, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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OF DOWELL & DOWELL P.C.
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OFFICE OF PETITIONS

In re Application of :
Anahory, et al. :
Application No. 61/129,146 : DECISION
Filed/Deposited: 6 June, 2008 :
Attorney Docket No. 16413PRO :

This is a decision on the petition filed on 2 July, 2008, seeking a filing date for the application, and properly considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

The instant application was deposited on 6 June, 2008.

On 30 June, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Application in that the application as deposited did not appear to include drawings as required by 35 U.S.C. §113—thus, the application had not been accorded a filing date.

OPAP indicated that Petitioner might, *inter alia*:

- contend via petition that drawings were present upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the specification (description, claims, abstract); or

- submit a copy of the drawings and accept the date of that submission as the filing date.

OPAP set a two- (2-) month period for reply.

On 2 July, 2008, Petitioner filed, *inter alia*, copies of the drawings (2 sheets) averred to have been present on deposit of the application and a copy of a date-stamped ("JUN 6 2008") receipt card.

ANALYSIS

A search of the official file reveals that:

- on 6 June, 2008, Petitioner deposited the instant application;
- the Office record reflects that on deposit the application did not include at least one drawing as required by 35 U.S.C. §113, and so the application had not been accorded a filing date;
- on 2 July, 2008, Petitioner submitted a petition, a copy of the drawings averred to have been submitted deposit and included therewith was is averred to be a true copy of the date-stamped ("JUNE 6 2008") receipt card and the document recites therein in pertinent part:

***

New US Provisional Patent Application with 14 pages of specification and 2 sheets of 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 14 pages of specification (description, abstract), and 2 sheets of drawings described in the specification, was deposited with the Office on 6 June, 2008, and the 2 sheets of drawings described in the specification subsequently were misplaced in the Office.

Accordingly, the application, including the specification abstract and 2 sheets of drawings described in the specification, is entitled to a filing date of 6 June, 2008.

The Notice mailed on 30 June, 2008, was sent in error to the extent that it reflected the omission of the drawings is hereby **vacated** to the extent that it stated that the application was not accorded a filing date because it was filed without drawings.

CONCLUSION

The petition is **granted**; the petition fee waived and it appears none was charged—should Petitioner later find that a fee was charged, 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 6 June, 2008, for the entire application including 14 pages of specification (description, abstract), and 2 sheets of drawings described in the specification using:

- **14 pages of specification (description, claims) deposited on 6 June, 2008; and**
- **the 2 sheets of drawings described in the specification deposited on 2 July, 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 6 June, 2008, and reflecting therein that 14 pages of specification (description, abstract) and 2 sheets 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

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[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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3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of
James F. Jolly
Application No. 61/129,391
Filed: June 23, 2008
Attorney Docket No. 043738-0127

DECISION ON PETITION

This is a decision on the petition, filed September 12, 2008, which is being treated as a petition under 37 CFR 1.53(e), requesting review of a notification that the original application papers lack a Figure described in the specification.

The petition is **GRANTED**.

A Notice of Omitted Item(s) in a Provisional Application (Notice) was mailed July 18, 2008 indicating that Figure 2 was omitted from the application upon filing.

Petitioner states that Figure 2 was in fact filed with the other application papers on June 23, 2008. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on June 23, 2008 of, *inter alia,* three (3) sheets of drawings for Figures 1-3. A copy of the previously submitted Figure 2 accompanies the petition.

Figure 2 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that Figure 2 was received in the USPTO but lost after receipt thereof.

In view of the above, the copy of Figure 2 supplied with the petition will be accepted in place of the Figure 2 shown to have been received by the USPTO on June 23, 2008.

Also, the petition fee of $400.00 will be refunded to Deposit Account No. 19-0741.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

David Bucei
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Toru TAKAHASHI, et al. :
Application No. 61/129,597 : DECISION ON PETITION
Application Received Date: July 8, 2008 :
Attorney Docket No. 060626.00050 :

This is a decision on the petition, filed August 7, 2008, requesting that a filing date be accorded to the instant application, which is being treated as a petition under 37 CFR 1.53 (e)(2).

The petition is **DISMISSED**.

Applicants state that a complete provisional patent application, including a complete specification as required by 35 USC § 112, was properly and timely filed, via courier, to the United States Patent & Trademark Office, on July 8, 2008 and that the specification included four (4) pages of detailed description, abstract, and drawings. In a Notice of Incomplete Provisional Application (Notice) mailed on August 1, 2008, the Office indicated that a filing date has not been accorded since the specification was missing. Applicants assert that this Notice is in error.

To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 8, 2008 of, *inter alia,* Fees ($210), New Application (4 pages) and a Provisional cover sheet and an Application Data Sheet. However, MPEP §503 states that "postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard." It is noted that the postcard receipt lists a "New Application" as having four (4) pages. No components of the application such as specification is specifically and properly itemized.

Even though an application purports to include the component parts necessary to obtain a filing date, the application will still be held to be incomplete and a filing date will be refused if the component parts fail to satisfy the requirements: (1) A specification as prescribed by 35 U.S.C. 112, first paragraph, and 37 CFR 1.71 and (2) A drawing, if necessary under 35 U.S.C. 113 (first sentence) and 37 CFR 1.81(a). The instant application remains incomplete since the specification included with the instant petition fails to satisfy the requirements in 37 CFR 1.71 (f) in that the Abstract is not on a separate sheet. No filing date can be granted until the incompleteness is corrected. *See MPEP §506 II.*

Any questions regarding this decision may be directed to Ramesh Krishnamurthy at (571)–272 - 4914.

David Bucci
Petitions Examiner
Office of Petitions

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VIENNA VA 22182-6212

In re Application of :
Toru TAKAHASHI, et al. :
Application No. 61/129,597 : DECISION ON PETITION
Application Received Date: July 8, 2008 :
Attorney Docket No. 060626.00050 :

This is a decision on the renewed petition, filed October 15, 2008, and resubmitted on March 27, 2009, requesting that a filing date of July 8, 2008, be accorded to the instant application, which is being treated as a petition under 37 CFR 1.53 (e)(2). The delay in responding to the renewed petition is regretted.

The petition is **GRANTED** to the extent indicated below.

Applicants state that a complete provisional patent application, including a complete specification as required by 35 USC § 112, was properly and timely filed, via courier, to the United States Patent & Trademark Office, on July 8, 2008 and that the specification included four (4) pages of detailed description, abstract, and drawings. In a Notice of Incomplete Provisional Application (Notice) mailed on August 1, 2008, the Office indicated that a filing date has not been accorded since the specification was missing. Petitioner asserts that this Notice is in error.

To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 8, 2008 of, *inter alia,* Fees ($210), New Application (4 pages) and a Provisional cover sheet and an Application Data Sheet. However, MPEP §503 states that "*postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.*" It is noted that the

postcard receipt lists a "New Application" as having four (4) pages. No components of the application such as specification is specifically and properly itemized. The post card receipt is therefore not acceptable as prima facie evidence of receipt of specification and drawings on July 8, 2008 and thus the requested filing date of July 8, 2008, cannot be granted.

However, the submission filed by the petitioner on August 7, 2008, does include a specification and Drawings that are sufficient for a Provisional Application to be accorded a filing date. The Office of Patent Application Processing (OPAP) is being notified of this decision, so that the present application can **receive further processing with a filing date of August 7, 2008**.

Any questions regarding this decision may be directed to Ramesh Krishnamurthy at (571) - 272 - 4914.

David Bucci
Petitions Examiner
Office of Petitions

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CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Mayerson, et al. :
Application No. 61/129,625 : DECISION ON PETITION
Filed: July 7, 2008 :
Attorney Docket No. 0055930.0559373 :

This is decision is in response to the "PETITION TO REQUEST ACCEPTANCE OF THE RESPONSE TO MISSING PARTS MAILED OCTOBER 3, 2008 AND WITHDRAWAL OF THE NOTICE OF INCOMPLETE REPLY MAILED NOVEMBER 5, 2008," filed January 2, 2009 under 37 CFR 1.181.

The application was filed July 7, 2008. A Notice to File Missing Parts of Provisional Application was mailed on August 6, 2008. A reply was filed October 3, 2008. A Notice of Incomplete Reply was mailed November 5, 2008. The instant petition was filed in response thereto on January 2, 2009 seeking withdrawal of the Notice of Incomplete Reply. However, on March 2, 2009 a Letter Regarding a New Notice and/or Status of the Application was mailed advising that the Notice of Incomplete Reply was withdrawn.

In view of the withdrawal of the Notice of Incomplete Reply on March 2, 2009, the instant petition is DISMISSED AS MOOT.

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

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OFFICE OF PETITIONS

In re Application of :
Najib Babul :
Application No. 61/129,631 : DECISION ON PETITION
Filed: July 8, 2008 :
Atty Docket No. 2008.7.8.FENT.ORAL :

This is a decision on the petition under 37 CFR 1.10(c), filed August 26, 2008, requesting that the above-identified application be accorded a filing date of July 8, 2008, instead of the presently accorded date of July 9, 2008. The petition is more appropriately being treated under the provisions of 37 CFR 1.10(d).

The petition, as construed, 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 July 8, 2008. In support, petitioner submits, *inter alia*, the USPS Express Mail postal receipt for Express Mail label No. EO949675056US and the Cover Sheet for the present provisional application.

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 has shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EO949675056US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of July 9, 2006 bear that "Express Mail" number. However, petitioner has not met the showing required under § 1.10(d)(3).

In this regard, the date upon which the Express Mail postage is purchased does not establish the date upon which the Express Mail package is actually deposited in "Express Mail Post Office to Addressee" service. Therefore, to facilitate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on July 8, 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 at 7:09pm on July 8, 2008 at the USPS.

In view of the above, the application is entitled to a filing date of July 8, 2008, the date the application was deposited in Express Mail service with the USPS.

This application file is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to July 8, 2008 and for issuance of a corrected filing receipt.**

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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In re Application of :
Najib Babul :
Application No. 61/129,632 : DECISION ON PETITION
Filed: July 8, 2008 :
Atty Docket No. 08.7.08.LIDO.PDN.TD:

This is a decision on the petition under 37 CFR 1.10(c), filed August 26, 2008, requesting that the above-identified application be accorded a filing date of July 8, 2008, instead of the presently accorded date of July 9, 2008. The petition is more appropriately being treated under the provisions of 37 CFR 1.10(d).

The petition, as construed, 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 July 8, 2008. In support, petitioner submits, *inter alia*, the USPS Express Mail postal receipt for Express Mail label No. EO949675793US and the Cover Sheet for the present provisional application.

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 has shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EO949675793US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of July 9, 2006 bear that "Express Mail" number. However, petitioner has not met the showing required under § 1.10(d)(3).

In this regard, the date upon which the Express Mail postage is purchased does not establish the date upon which the Express Mail package is actually deposited in "Express Mail Post Office to Addressee" service. Therefore, to facilitate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on July 8, 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 at 7:08pm on July 8, 2008 at the USPS.

In view of the above, the application is entitled to a filing date of July 8, 2008, the date the application was deposited in Express Mail service with the USPS.

This application file is being referred to the Office of Patent Application Processing (OPAP)for **correction of the filing date to July 8, 2008 and for issuance of a corrected filing receipt.**

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NAJIB BABUL
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In re Application of :
Najib Babul :
Application No. 61/129,633 : DECISION ON PETITION
Filed: July 8, 2008 :
Atty Docket No.08.7.08.LIDO.PT.DIST:

This is a decision on the petition under 37 CFR 1.10(c), filed August 26, 2008, requesting that the above-identified application be accorded a filing date of July 8, 2008, instead of the presently accorded date of July 9, 2008. The petition is more appropriately being treated under the provisions of 37 CFR 1.10(d).

The petition, as construed, 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 July 8, 2008. In support, petitioner submits, *inter alia*, the USPS Express Mail postal receipt for Express Mail label No. EO949677366US and the Cover Sheet for the present provisional application.

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 has shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EO949677366US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of July 9, 2006 bear that "Express Mail" number. However, petitioner has not met the showing required under § 1.10(d)(3).

In this regard, the date upon which the Express Mail postage is purchased does not establish the date upon which the Express Mail package is actually deposited in "Express Mail Post Office to Addressee" service. Therefore, to facilitate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on July 8, 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 at 7:11pm on July 8, 2008 at the USPS.

In view of the above, the application is entitled to a filing date of July 8, 2008, the date the application was deposited in Express Mail service with the USPS.

This application file is being referred to the Office of Patent Application Processing (OPAP)for **correction of the filing date to July 8, 2008 and for issuance of a corrected filing receipt.**

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Najib Babul :
Application No. 61/129,634 : DECISION ON PETITION
Filed: July 8, 2008 :
Atty Docket No.2008.7.8.RACE.NSL.INH:

This is a decision on the petition under 37 CFR 1.10(c), filed August 26, 2008, requesting that the above-identified application be accorded a filing date of July 8, 2008, instead of the presently accorded date of July 9, 2008. The petition is more appropriately being treated under the provisions of 37 CFR 1.10(d).

The petition, as construed, 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 July 8, 2008. In support, petitioner submits, *inter alia*, the USPS Express Mail postal receipt for Express Mail label No. EO949664115US and the Cover Sheet for the present provisional application.

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 has shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EO949664115US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of July 9, 2006 bear that "Express Mail" number. However, petitioner has not met the showing required under § 1.10(d)(3).

In this regard, the date upon which the Express Mail postage is purchased does not establish the date upon which the Express Mail package is actually deposited in "Express Mail Post Office to Addressee" service. Therefore, to facilitate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on July 8, 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 at 7:10pm on July 8, 2008 at the USPS.

In view of the above, the application is entitled to a filing date of July 8, 2008, the date the application was deposited in Express Mail service with the USPS.

This application file is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to July 8, 2008 and for issuance of a corrected filing receipt.**

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NAJIB BABUL
146 MEDINAH DRIVE
BLUE BELL, PA 19422-3212

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NOV 26 2008

OFFICE OF PETITIONS

In re Application of :
Najib Babul :
Application No. 61/129,635 : DECISION ON PETITION
Filed: July 8, 2008 :
Atty Docket No. 08.7.8THEOMONO.COMB:

This is a decision on the petition under 37 CFR 1.10(c), filed August 26, 2008, requesting that the above-identified application be accorded a filing date of July 8, 2008, instead of the presently accorded date of July 9, 2008. The petition is more appropriately being treated under the provisions of 37 CFR 1.10(d).

The petition, as construed, 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 July 8, 2008. In support, petitioner submits, *inter alia*, the USPS Express Mail postal receipt for Express Mail label No. EO949670986US and the Cover Sheet for the present provisional application.

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 has shown that the instant petition was filed promptly within the meaning of § 1.10(d)(1). There is no dispute that the number of the "Express Mail" mailing label, EO949670986US, was placed on the papers that constitute the correspondence prior to the original mailing by "Express Mail," in compliance with § 1.10(d)(2). The papers presently accorded a filing date of July 9, 2006 bear that "Express Mail" number. However, petitioner has not met the showing required under § 1.10(d)(3).

In this regard, the date upon which the Express Mail postage is purchased does not establish the date upon which the Express Mail package is actually deposited in "Express Mail Post Office to Addressee" service. Therefore, to facilitate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on July 8, 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 at 7:10pm on July 8, 2008 at the USPS.

In view of the above, the application is entitled to a filing date of July 8, 2008, the date the application was deposited in Express Mail service with the USPS.

This application file is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to July 8, 2008 and for issuance of a corrected filing receipt.**

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN VICTOR MD
30 E76 ST
NEW YORK NY 10021

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
STEVEN VICTOR :
Application No.: 61/129906 : DECISION ON
Filing or 371(c) Date: 00/00/0000 : PETITION
Title of Invention: :
CHROMO-SUNSCREEN CREAMS & :
LOTIONS. A SUNSCREEN CONTAINING :
MICROENCAPSULATED CHRONORPHUES:
AS INDICATORS OF LOSS OF SPF :

This is a decision in response to the correspondence filed December 19, 2008, in response to a Notice of Termination of Proceedings Under 37 CFR 1.53(e). The correspondence is properly treated as a petition to withdraw the Notice based upon the filing of a timely reply, under 37 CFR 1.181.

The petition is **dismissed**.

Applicant deposited a Provisional Application for Patent Cover Sheet and fee of $105.00 on July 29, 2008. This Office mailed a Notice of Incomplete Provisional Application on September 5, 2008, informing Applicant that a filing date had NOT been accorded the application because the Specification was missing.

In response to the Notice, Applicant filed the present petition, wherein Applicant asserts that "[t]his is proof that all documents were sent out as requested." Accompanying the petition are a specification (4 pages), a specification (12 pages), and claims (2) pages.

A review of the petition reveals that the petition is signed by Lauren Druckman. Office records do not identify that Ms. Druckman is a registered practitioner, licensed to practice before this Office, nor is Ms. Druckman identified as an inventor of the present application.

The applicable rule, 37 CFR 1.31, states that Applicant may be represented by one or more patent practitioners or joint inventors, only. The rule provides that "[a]n applicant for patent may file and prosecute his or her own case, or he or she may give a power of attorney so as to be represented by one or more patent practitioners or joint inventors."

The manual of Patent Examining Procedure (MPEP provides further the following:

> An applicant for patent may file and prosecute his or her own application, and thus act as

his or her own representative (pro se) before the Office. See 37 CFR 1.31. In presenting (whether by signing, filing, submitting, or later advocating) papers to the Office, a pro se applicant is making the certifications under 37 CFR 10.18(b), and may be subject to sanctions under 37 CFR 10.18(c) for violations of 37 CFR 10.18(b)(2). See 37 CFR 1.4(d)(4). See also MPEP § 410.

In view of the foregoing, the petition, executed by Ms. Druckman, is not a proper petition and is dismissed.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Berry et al.	:	
Application No. 61/130780	:	
Filing or 371(c) Date: 06/02/2008	:	DECISION
Attorney Docket Number:	:	ON PETITION
4331.1003-000	:	

This is a decision on the "Request for Corrected Filing Date," filed June 13, 2008. The request is properly treated as a petition under 37 CFR § 1.10(c).

This Petition is hereby **dismissed as moot**.

Petitioner alleges that the application was deposited in Express Mail service on June 2, 2008. In support of this assertion, the petition is accompanied by a copy of the application Transmittal Form, which includes Express Mail Label Number EJ611949384US, and a copy of Express Mail Label Number EJ611949384US.

A review of the Office records reveals that the filing date of the application is June 2, 2008. Further tot his, a Filing Receipt, noting the filing date of the application as June 2, 2008, was mailed on July 21, 2008.

In view of the above, the petition is dismissed. No fee has been charged and none is due.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hicks Energy Company
James K. Hicks, JR
8827 Grand Lake Estates Drive
Montgomery TX 77316

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Hicks et al. : ON PETITION
Application No. 61/130,856 :
Filed: **October 1, 2008** :
Title: FUEL FROM BLEND OF :
RECYCLED OILS AND GASOLINE :

This is in response to the response filed October 1, 2008, submitting the specification in the above-identified application. This paper is also treated as a request to withdraw termination of proceedings.

Application papers in the above-identified provisional application were received in the Office on June 5, 2008. However, those papers filed by a *pro se* applicant included only a provisional application cover sheet. Accordingly, on June 16, 2008, the Office mailed a "Notice of Incomplete Provisional Application," advising applicant that the application papers had not been accorded a filing date because the application was missing the required specification. This Notice set a two-month period for reply. No reply received, a Notice of Termination of Proceedings was mailed on September 22, 2008.

In response, applicant filed the instant petition. Therein, applicant suggests that the specification was initially filed with the Patent Office on June 2, 2008, Customer Number 00080313. Applicant also submits a copy of a Notice of Customer Number Assignment as mailed to applicant by the Office on June 2, 2008. Applicant attaches a copy of the specification, including composition and method claims.

Preliminarily, it is noted that *pro se* applicant's request to withdraw termination of proceedings is granted. It is noted that no fees were in fact refunded to applicant.

Consideration now turns to the issue of entitlement to 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.

As applicant's specification includes method and composition claims, for purposes of according a filing date, this application has no required drawing. Thus, the issue remains what date is the specification considered received in the Patent and Trademark Office in this application.

The image file wrapper is the official record of the application papers received in the Office in this application. A review of the image file wrapper (electronic file of this application) reveals that no specification was filed in this application on June 5, 2008 as no specification is present in the file. The image file wrapper supports a conclusion that the Office only received a provisional application cover sheet on June 5, 2008. 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 response filed October 1, 2008 does not include convincing evidence that the application papers, including a specification, were received in the United States Patent and Trademark Office on June 5, 2008 (e.g., itemized and date-stamped return postcard). The copy of the Notice of Customer Number Assignment is not persuasive evidence. Whether any customer number was assigned to this case is not relevant to whether the application papers were deposited in the Office on June 5, 2008. The function of assigning a customer number is not related to that of accepting application papers and according a filing date. A request to assign a customer number is not an application paper and is not entered into the application as such. Further, such a request is processed by the Patents Electronic Business Center rather than the Office of Patent Application Processing (the Office that intakes and processes the patent applications for completeness and entitlement to a filing date). Further, the

request for customer number is processed independently of the contents of the application. The request does not involve a review of the application papers deposited with the Office or consideration of entitlement to a filing date.

The petition is **DISMISSED** with respect to according this application a filing date of June 5, 2008.

Nonetheless, the application is entitled to a filing date of October 1, 2008, the date of receipt of the specification.

Receipt of the petition fee is acknowledged.

The application is being returned to the Office of Patent Application Processing for:

- **according of a filing date of October 1, 2008**, the date of receipt of the specification.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Robert E. Foley
1080 WQest County Road D #1
Roseville MN 55126

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APR 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Foley :
Application No. 61/131,217 : ON PETITION
Filed: June 6, 2008 :
Attorney Docket No. N/A :
For: SURVEILLANCE EYE WITH
SCISSOR POD AND HAND POD

This decision is mailed in response to correspondence filed March 30, 2009, which is being treated as a feeless 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. 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 was held abandoned on September 17, 2008 for failure to timely respond to the Notice of File Missing Parts of Provisional Application, mailed July 16, 2008, which required applicant to submit the $5.00 balance due for the basic filing fee and a $25.00 surcharge for the late submission of the full filing fee within two months of the mailing of the July 16, 2008 Notice. A Notice of Abandonment was mailed on March 19, 2009.

Petitioner requests withdrawal of the holding of abandonment because he did not read the Notice closely enough and did not realize that additional fees were due.

Petitioner, by his own admission, received the July 16, 2008 Notice, which required action on his part in order to avoid abandonment. The Notice states, "...Applicant is given TWO MONTHS from the mail date of this Notice within which to file all required items and pay any fees required below to avoid abandonment...." Notice to File Missing Parts. Therefore, the application became abandoned on September 17, 2008 because petitioner did not respond to the Notice. The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Failure to closely read an Office Notice is not the action of a reasonable, prudent person with respect to his most important business. It does not establish unavoidable delay.

Petitioner is encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b). The petition fee is $810.00. The required reply is the $5.00 because effective October 2, 2008, the provisional application filing fee became $110.00. Any fee amount paid on or after October 2, 2008 must be paid at the amount specified in the revised fee schedule. Petitioner has paid only $105.00 in total. Thus, any petition to revive must be accompanied by the $5.00 balance due for the provisional application filing fee.

For petitioner's convenience, a blank copy of Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b) is enclosed.

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

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

By hand:
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

Enclosures: Petition for Revival of an Application 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
P.O. Box 1450
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MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVE
SUITE 3300
MILWAUKEE WI 53202-4108

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SEP 11 2008

In re Application of
EVANS, EVAN E.
Application No. 61/131,610
Filed: June 9, 2008
Attorney Docket No. 084554-9304-00

DECISION ON PETITION
UNDER 37 CFR 1.10(d)

This is a decision on the "PETITION UNDER 37 CFR §§ 1.10 AND 1.53(b) FILING OF CORRESPONDENCE BY 'EXPRESS MAIL,'" filed on August 8, 2008, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of June 9, 2008, rather than the presently accorded filing date of June 10, 2008.

Petitioner alleges that the application was deposited in Express Mail service on June 9, 2008. The date-in indicated on Express Mail label No. EV587214408US is June 10, 2008. However, petitioner asserts that the USPS incorrectly entered June 10, 2008, instead of June 9, 2008, the date of deposit with a USPS employee for USPS Express Mail Service.

In support of the allegation, petitioner submitted the United States Postal Service Track & Confirm information showing that the USPS processed a package, bearing Express Mail label No. EV587214408US on June 9, 2008. Additionally, petitioner provided 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. EV587214408US on June 9, 2008, as evidenced by his signature. The same Express Mail label number was placed on the original transmittal sheet located in the official file.

In view of the corroborating evidence, it is concluded that the correct date of deposit in Express Mail Service is June 9, 2008. Therefore, the application will be accorded a filing date of June 9, 2008. The petition under 37 CFR 1.10(d) is **granted**.

The Office of Patent Examination Processing is directed to correct the filing date to June 9, 2008, and mail a corrected filing receipt.

Telephone inquires specific to this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAXTER HEALTHCARE CORPORATION
1 BAXTER PARKWAY
DF2-2E
DEERFIELD IL 60015

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AUG 20 2008

In re Application of	:	
WEINBERGER et al.	:	
Application No. 61/131,911	:	DECISION GRANTING PETITION
Filed: June 13, 2008	:	
Atty Docket No. CPTR-6542 (112713-2060)	:	

This is a decision on the petition under 37 CFR 1.10(c), filed August 5, 2008, requesting that the above-identified application be accorded a filing date of June 13, 2008, rather than the presently accorded date of June 14, 2008.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 13, 2008, pursuant to 37 CFR 1.10. In support, applicants have submitted a copy of Express Mail label No. EV351266535, showing a date-in and stamped postal date of June 13, 2008. The same Express Mail receipt number was placed on the original patent application transmittal letter of record in the official file.

In view of the above, it is concluded that the application was deposited in Express Mail service on June 13, 2008. Accordingly, the instant application is will be accorded a filing date of June 13, 2008. The petition is **granted**.

This application is being forwarded to the Office of Patent Application Processing **to correct the filing date to June 13, 2008,** and mail a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of
Weinblatt
Application No. 61/132,952
Filed: July 21, 2008
Attorney Docket No.: 5264-89

DECISION ON PETITION

This is a decision on the petition filed September 22, 2008, requesting that the above-identified provisional application be accorded a filing date of June 23, 2008.

The application was deposited on June 23, 2008. However, on July 18, 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. A reply including drawings were submitted on July 21, 2008. The Office accorded a filing date of July 21, 2008.

On September 22, 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 23, 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 some disclosure of a process.

It is further noted that attorney Weisz states that drawings are not necessary for the understanding of the subject matter being sought.

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.

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 23, 2008**, with zero (0) drawings as part of the original disclosure. The drawings submitted on July 21, 2008 are not part of the original disclosure and will be closed.

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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RYAN KROMHOLZ & MANION, S.C.
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MILWAUKEE WI 53226

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of
Schmidt
Application No. 61/133,262
Filed: June 28, 2008
Attorney Docket No. 9847.20453-PROV
For: METHOD FOR PERMANENT EMBOSSING OF NON WOVEN WEBS

ON PETITION

This is a decision on the petition, filed September 2, 2008 (certificate of mailing date August 27, 2008), requesting that the above-identified application be accorded a filing date of June 27, 2008, rather than the presently accorded filing date of June 28, 2008. The petition will be treated under 37 CFR 1.10(c).

Petitioner contends that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on June 27, 2008. In support of this contention, petitioner has supplied with the present petition a copy of a USPS Track and Confirm printout that shows a package associated with Express Mail label no. EM017456925US was accepted by the USPS on June 27, 2008. A review of the application file reveals that the Cover Sheet for Filing Provisional Application references Express Mail Receipt Number: EM017456925US.

In view of the above, the petition under 37 CFR 1.10(c) is **granted**.

No fee has been or will be charged in connection with this matter.

This application file is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of **June 27, 2008.** OPAP will mail a corrected filing receipt reflecting the June 27, 2008 filing date for the application in due course.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Emil Ismalon :
Application No. 61/133,418 : DECISION ON PETITION
Filed: June 26, 2008 :
Attorney Docket No. 209,783 :

This is a decision on the petition under 37 CFR 1.10(c) filed July 16, 2008.

The petition is **dismissed as moot.**

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be June 26, 2008, not June 30, 2008, which apparently the date of the stamp placed on petitioner's postcard whereby the USPTO acknowledged receipt of the application. In support thereof, petitioner filed a copy of the Express Mail label EB908952965USUS. The date-stamp and "date-in" on the Express Mail receipt are illegible in the Image File Wrapper, however; the postal receipt for the subject package is legible and shows a transaction date of June 26, 2008.

Although petitioner asserts that the filing date originally accorded the subject application was Junn 30, 2008, the undersigned saw no evidence of this in reviewing the application file. The filing date for the application was June 26, 2008, at the time the application file was reviewed for disposition of the subject petition. Accordingly, there is no relief that can be offered by the petition under 37 CFR 1.10(c). The petition is dismissed, accordingly.

The application is being directed to the Office of Patent Application Processing with a filing date of June 26, 2008.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAMALIE MULINDWA
1180 W. 7th ST # 2
SAN PEDRO, CA 90731

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JUN 10 2009

OFFICE OF PETITIONS

In re Application of Mulindwa :
Application No. 61/133,511 : Decision on Petition
Filing Date: June 30, 2008 :
For: Post Maternity and Menstrual :
Electro Charged Therapeutic :
Stretch Belt :

This is a decision on the petition filed April 4, 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."

Background

The instant application was filed with $75 on June 30, 2008. The cover sheet did not indicate applicant claimed small entity status.

The Office mailed a Notice to File Missing Parts of Provisional Application on July 22, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. The Notice required the submission of a total of $260 ($210 filing fee and $50 surcharge) in fees unless small entity status was established and the fees for a small entity were filed.

The July 22, 2008 Notice failed to take into account the $75 previously submitted when setting forth the required fees due. The Notice should have indicated a payment of $185 ($260 - $75) was required.

A reply to the July 22, 2008 Notice was not matched with the file. As a result, the application became abandoned on September 23, 2008.

The Office mailed a Notice of Abandonment on March 25, 2009.

Discussion

The instant petition was filed April 4, 2009, and requests withdrawal of the holding of abandonment based on assertion a reply was timely filed in response to the July 22, 2008 Notice.

A review of the evidence is sufficient to establish a reply was mailed in compliance with 37 CFR 1.10 on August 4, 2008. The evidence indicates the reply was physically received by the Office on August 6, 2008.

The reply included two pages of "Provisional Application for Patent Cover Sheet." However, the reply was not intended to be a new application despite the fact the cover sheet to accompany a new application was filed. Although not prominently displayed, the application number for the instant application was listed on both pages of the cover sheet.

The reply indicated a check or money order for $260 was enclosed. Petitioner has provided a receipt showing he purchased a money order for $260 from the USPS only minutes before the reply was given to the USPS for mailing.

Although petitioner has proven petitioner timely filed a money order for $260, the Office is unable to locate the $260 and petitioner has not stated the money order has been cashed. The Office cannot grant the instant petition until the required fees are paid.

As stated earlier, the $260 fee set forth on the July 22, 2008 failed to take into account the $75 paid on June 30, 2008. Therefore, petitioner is required to submit $185 in order for the petition to be granted.

Petitioner should cancel payment on the prior money order and file a new money order, or check, with the Office in the amount of $185.

The request for reconsideration and payment of $185 should be addressed as follows:

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

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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NOV 19 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Himmel :
Application No. 61/133,615 :
Deposited: June 30, 2008 :
Attorney Docket No. 962.082PRV :
For: SYSTEMS, METHODS, AND INTERFACES FOR PUBLISHING, SHARING, AND SELLING LEGAL, EDUCATIONAL AND OTHER MATERIALS

This is a decision on the petition, filed October 27, 2008, to accord a filing date of June 30, 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 June 30, 2008. However, on August 25, 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 June 30, 2008 references drawing figures.

In the present petition, applicant requests that the application be accorded a June 30, 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 August 25, 2008 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of June 30, 2008 without drawing figures. The petition is **granted**.

Pursuant to petitioner's authorization, the $400.00 petition fee will be refunded to deposit account no. 19-0743.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **June 30, 2008** and the mailing of a filing receipt reflecting the June 30, 2008 filing date. No drawing figures were filed on June 30, 2008.

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
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MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Savage, et al :
Filed: July 8, 2008 : ON PETITION
Application No. 61/134,224 :
Dkt. No.: MRL-NOP-00017-US-PSP :

This is a decision on the "PETITION TO ESTABLISH THAT DRAWINGS NOT NECESSARY UNDER 35 USC §113 FOR A FILING DATE," filed August 8, 2008 to accord the above-identified application a filing date of July 8, 2008.

The petition is **DISMISSED**.

The application was submitted July 8, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed August 1, 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 July 8, 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 July 8, 2008, without drawings as part of the original disclosure.

No fee has been assessed 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 July 8, 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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DAVID L. FRANK
SUITE 300
5255 NORTH FEDERAL HIGHWAY
BOCA RATON FL 33487

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SEP 25 2008

In re Application of :
David Loron Frank :
Application No. 61/134,405 : ON PETITION
Filed: July 10, 2008 :
Title of Invention: **HIGH PERFORMANCE STRADDLE CARRIER RADIATION VERIFICATION SYSTEM** :

This decision is in response to the petition filed August 25, 2008, to accord the application a filing date of July 10, 2008 with nine (9) drawing figures present on filing. The petition is being treated under 37 CFR 1.182.

The petition is **DISMISSED**.

A Notice of Omitted Items mailed August 7, 2008 indicated that Figure 9 appeared to have been omitted. Petitioners filed the petition in response thereof arguing that 9 drawing figures were present on filing. Included with the petition are copies of the nine (9) drawing sheets submitted upon application

A review of the file revealed that the drawing sheets submitted upon filing are identical to the drawing sheets submitted with the petition. The office therefore confirms that nine (9) drawing sheets were in fact submitted upon filing however, on the ninth page the drawing is labeled as Figure 3. There is no figure labeled as Figure 9 as indicated in the Notice mailed August 7, 2008.

The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. Petitioner has the burden of proving the claim that Figure 9 was not omitted upon filing and since no such proof to substantiate that claim has been proffered, it has to be concluded that the filing error was that of the applicant.

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]

[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.

As such, if petitioners desire to correct the drawing submission, petitioners should simply file a new completed provisional application, including Figure 9.

In view of the above, the petition was not necessitated by any error on the part of the Office.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 25 2008

OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of :
Wan, et al. :
Application No. 61/134,459 : DECISION GRANTING PETITION
Filed: July 9, 2008 :
Attorney Docket No. 130-000700US :

This is a decision on the petition filed August 13, 2008, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of July 9, 2008, rather than the presently accorded filing date of July 10, 2008.

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail Service on July 9, 2008. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EVM309901291US showing a "date-in" of July 9, 2008. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on July 9, 2008.

In view of the above, the petition is granted. The new filing date for the above-cited application is July 9, 2008.

The Office of Patent Application Processing will further process the application with a filing date of July 9, 2008, and issue a corrected filing receipt.

Any inquiries related 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
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 02 2008

CELERA CORPORATION
1401 HARBOR BAY PARKWAY
ALAMEDA CA 94502

In re Application of
Shiffman, et al.
Application No. 61/134,522
Filed: July 9, 2008
Attorney Docket No. CD000026PRO

DECISION GRANTING PETITION

This is a decision on the petition filed August 14, 2008, requesting that the above-identified application be accorded a filing date of July 9, 2008, rather than the presently accorded date of July 10, 2008. The petition is properly treated as a petition under 37 CFR 1.10(c).

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 July 9, 2008 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express mail label No. ER768745205US, showing a handwritten "date-in" of July 9, 2008. The same Express Mail number appears on the original transmittal papers found in the application 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 July 9, 2008.

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 July 9, 2008 and for issuance of a corrected filing receipt.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON MA 02205

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OCT 2 7 2008

OFFICE OF PETITIONS

In re Application of :
Markovitz, et al. :
Application No. 61/134,566 : ON PETITION
Filed: July 11, 2008 :
Attorney Docket No. 82178P(47992) :

This is a decision on the petition filed October 7, 2008, requesting that the above-identified application retain the presently accorded a filing date of July 11, 2008.

On July 11, 2008, the above-identified application was filed. On August 7, 2008, the Office of Patent Application Processing mailed a "Notice of Omitted Items" (the "Notice"), stating that the application had been accorded a filing date of July 11, 2008, however, Figure 11H as described in the specification appeared to have been omitted. As to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on October 7, 2008, applicant filed the present petition and maintains that the specification did not indicate that a Figure 11H was a part of the application.

Upon review of the record, it does not appear that the specification cites a Figure 11H. It is noted that Figures 11 A-G are described in the application, but no description of a Figure 11H is noted. The evidence is convincing the Office made an error in noting that the application cited a Figure 11H and that no Figure 11H was meant to accompany the application papers.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee of $400.00 will be refunded in due course.

The application file is being returned to the Office of Patent Application Processing for further review with the presently accorded filing date of July 11, 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

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POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG VA 22404

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Farkas et al.	:	
Application No. 61/134,886	:	ON PETITION
Filed: July 14, 2008	:	
Attorney Docket No. 0110-312	:	

This is a decision on the petition filed September 8, 2008, requesting that the above-identified application be accorded a filing date of July 14, 2008, rather than the presently accorded date of July 15, 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 July 14, 2008, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EH 037147980 US, showing a handwritten "date-in" of "07/14/08." The same Express Mail receipt number appears on the original "Provisional Application for Patent Cover Sheet." Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated July 14, 2008 on the cover page for the application papers.

Applicant has also submitted a copy of the Track & Confirm record showing that the package in question was accepted on July 14, 2008, at 8:34 p.m. at the Arlington, VA USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on July 14, 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 referred to the Office of Patent Application Processing for further **processing with a filing date of July 14, 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
www.uspto.gov

Donald B. Keys
983 Pembrook Road
Cleveland Hts., OH 44121

MAILED

JUL 24 2009

OFFICE OF PETITIONS

In re Application of Keys :
Application No. 61/135,446 : Decision on Petition
Filing Date: July 21, 2008 :
For: Therapeutic Support/Traction :
Brace With Tension Adjusting :
Magnetically Repelling Units :

This is a decision on the petition filed June 30, 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 without any fees on July 21, 2008.

The Office mailed a Notice to File Missing Parts of Provisional Application on October 21, 2008. The Notice stated, with emphasis in original,

> Applicant is give **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....
>
> *Applicant must submit* **$110** *to complete the basic filing fee for a small entity....*
>
> The required item(s) identified below must be timely submitted to avoid abandonment:
>
> - To avoid abandonment, a surcharge ... of **$25** ... must be submitted with the missing items identified in this notice.

The Notice also stated, "If you are not using EFS-Web to submit your reply, you must include a copy of this notice."

The Office received a reply to the October 21, 2008 Notice on May 23, 2009. The items filed May 23, 2009, included:

(1) A copy of the first page of the filing receipt,
(2) A copy of a Petition For Extension of Time form stating $1,175 was being submitted for a five-month extension of time, and
(3) Payment of $1,175.

The items filed May 23, 2009, did not include a copy of the Notice to File Missing Parts.

A Notice of Abandonment was mailed June 29, 2009.

A petition was filed on June 30, 2005. The petition states,

> Before the expiration of the two months the petitioner called the Inventors Help Line.... [P]etitioner was informed that he actually had six months from the October 21, 2008 mailing date of the notice.... It was the petitioner's understanding from the advice given on the Inventors Help Line that the filing fee would increase each month but as long as the fee was mailed to the Patent Office and postmarked by May 21, 2009 the application would not go into abandonment.
>
> During the week before the six month deadline, the petitioner made several phone calls to the Patents and Trademark Office and to the Inventors Help Line to find out how much money should be submitted.... After telephone calls with at least three different aides, the petitioner had the understanding that the total fee due was $1,175.00.... On May 21, 2009, the petitioner ... mailed a check for $1,175.00.... The check was cashed May 1, 2009.
>
> On June 16, 2009 while calling to obtain information on how to have the Invention advertised in the Official Gazette the petitioner was made aware that the original filing fee of $135 was still due and was not part of the $1,175.00.
>
> Please accept my check for $1,175.

Discussion

Petitioner has not shown a proper reply was timely filed in response to the Notice to File Missing Parts.

Petitioner filed a reply on May 23, 2009. In order for the reply to have been both a proper and timely reply, the reply would have needed to have included $110 for the filing fee, $25 for the surcharge, and $1,175 for a five-month extension of time. Petitioner does not contend petitioner submitted $1,310 ($110 + $25 + $1,175) on May 23, 2009. Therefore, petitioner has failed to show a proper and timely reply was filed in response to the Notice to File Missing Parts.

Petitioner's reasons for not submitting the correct fees are not relevant when determining if the application is abandoned.

Petitioner has supplied an explanation for his failure to pay the correct fees. However, a petition to withdraw the holding of abandonment can only be granted when a party demonstrates an application is not actually abandoned. In other words, the only issue in the instant case is whether or not the application is abandoned. A reason why an application became abandoned is not proof the application is not abandoned no matter how strong the reason may, or may not, be.

Petitioner's reasons for not submitting the correct fees are relevant if a petition under 37 CFR 1.137(a) is filed.

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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. Therefore, the reasons an application became abandoned are relevant when determining if the entire delay in filing a proper reply was unavoidable. The Office notes the fact the Office has recognized the reasons the application became abandoned would be relevant if a petition was filed under 37 CFR 1.137(a) is not a determination that the reasons would, or would not, be sufficient to support a finding of unavoidable delay.

A petition under 37 CFR 1.183 will need to be filed and granted in a nonprovisional application in order for the nonprovisional application to gain the benefit of the filing date of the instant provisional application.

The basic filing fee set forth in § 1.16(k) was not paid within the time period set forth in 37 CFR § 1.53(g) in Provisional Application No. 61/135,446.

37 CFR 1.78(a)(4) states,

> In order for a nonprovisional application to claim the benefit of one or more prior filed provisional applications . . . [for] each prior provisional application[,] the basic filing fee set forth in § 1.16(k) must be paid within the time period set forth in § 1.53(g).

The Notice entitled *Request for Continued Examination Practice and Changes to Provisional Application Practice, Final rule*[1] states, with emphasis added,

> Comment 9: One comment indicated that if an applicant fails to timely reply to a Notice to File Missing Parts of Application in a provisional application, the Office should permit an applicant to revive the provisional application to file the filing fee, surcharge, translation, or whatever else is missing from the provisional application such that a nonprovisional application may claim the benefit of the provisional application under 35 U.S.C. 119(e) and § 1.78.

[1] 65 *Fed. Reg.* 50092 (August 16, 2000), 1238 *Off. Gaz. Pat. Office* 13 (September 5, 2000). The provisions of the rule package related to 37 CFR 1.78 went into effect on August 16, 2000.

> Response: Section 1.78(a)(3) [Now § 1.78(a)(4)] requires, for a nonprovisional application to claim the benefit of a provisional application, that the provisional application filing fee be paid within the period specified in 1.53(g).... *Thus, the grant of a petition to revive the provisional application will still not result in compliance with 1.78(a)(3). Rather, the applicant would be required to file a petition under § 1.183* showing that circumstances of applicant's failure to pay the provisional application filing fee within the period specified in § 1.53(g) ... constitutes an "extraordinary situation" in which "justice requires" a waiver of this requirement of 1.78(a)(3).

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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

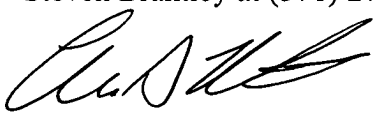
For the reasons above, petitioner must obtain waiver of 37 CFR 1.78(a)(4) in a nonprovisional application in order to claim priority based on the instant application.

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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KANSAS STREET
NATICK MA 01760

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JAN 21 2009

In re Application of	:	
Bruno, et al.	:	
Application No. 61/135,533	:	DECISION DISMISSING PETITION
Deposited: August 4, 2008	:	
Attorney Docket No. NA-1311	:	

This is a decision on the petition filed December 1, 2008, to accord the above-identified application a filing date of August 4, 2008, with Figures 1-3 of the drawings as part of the original disclosure.

Application papers in the above-identified application were deposited on August 4, 2008. However, on November 7, 2008, the Office of Initial Patent Examination mailed applicant 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.

In response, on December 1, 2008, applicants filed the present petition. Petitioner has submitted Figures 1-3 and requested that the application, including Figures 1-3, be accorded a the filing date of August 4, 2008. However, petitioner has submitted no proof (e.g. a USPTO date stamped postcard receipt) to establish that Figures 1-3 were present on filing.

The PTO file is the official record of papers originally filed in this application. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. A review of the official file reveals that Figures 1-3 were not filed on August 4, 2008, since those Figures are not present in the file.

In view thereof, 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 1.53."

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

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United States Patent and Trademark Office
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MOTION GEAR FITNESS EQUIPMENT AND APPAREL
P.O. BOX 25374
WINSTON-SALEM, NC 27114

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OCT 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Bobbie Bullock	:	
Application No. 61/136,394	:	ON PETITION
Filed: August 28, 2008	:	
Attorney Docket No. None	:	

This is a decision on the petition filed July 20, 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).

This application was held abandoned for failure to timely respond to the Notice to File Missing Pars of Provisional Application, mailed October 10, 2008, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before December 10, 2008. However, petitioner submitted and paid a one-month extension of time on January 9, 2009, as well as another one-month extension of time on February 6, 2009. Accordingly, the application became abandoned on May 11, 2009. A Notice of Abandonment was mailed June 24, 2009.

USPTO records reveal that a reply to the Notice to File Missing Parts of Provisional Application was received on April 17, 2009. However, since the reply was not accompanied by an additional two-month extension of time, the response is not considered as being timely filed. Accordingly, the application was properly abandoned.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 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.

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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MOTION GEAR FITNESS EQUIPMENT AND APPAREL
P.O. BOX 25374
WINSTON-SALEM, NC 27114

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APR 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Bobbie Bullock	:	
Application No. 61/136,394	:	DECISION ON PETITION
Filed: August 28, 2008	:	
Attorney Docket No. None	:	

This is a decision on the petition filed 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 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 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
www.uspto.gov

Robert W. Sanders – Pres.
Titan Speed Engineering, Inc.
13001 Tree Ranch Road
Ojai, CA 93023

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SEP 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Robert W. Sanders :
Application No. 61/136,614 : ON PETITION
Filed: September 19, 2008 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(a), filed July 17, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

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

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 October 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 case became abandoned on December 25, 2008. A Notice of Abandonment was mailed on July 9, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner states that he called and "thought that this had been resolved." It is not clear from the petition what it was that was resolved or who he had called. As noted above, the application went abandoned for failure to provide the basic filing fee as indicated in the Notice mailed October 24, 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. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). 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 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. 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).

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee. A copy of the Office form for petitions under 37 CFR 1.137(b) is attached for petitioner's convenience.

The petition fee for the filing of an unavoidable petition under 37 CFR 1.137(a) is $270. The amount paid upon filing of this petition was $810. A refund of $540 will be credited to petitioner's credit card.

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

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

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

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

By hand: U. S. Patent and Trademark Office

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Copy of Form No. (PTO/SB/64)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

Robert W. Sanders – Pres.
Titan Speed Engineering, Inc.
13001 Tree Ranch Road
Ojai, CA 93023

In re Application of	:	
Robert W. Sanders	:	
Application No. 61/136,614	:	ON PETITION
Filed: September 19, 2008	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed October 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 case became abandoned on December 25, 2008. A Notice of Abandonment was mailed on 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 a $110 provisional application filing fee 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 July 17, 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
www.uspto.gov

WILLIE BENJAMIN
3325 BLAINE ST. N.E.
WASHINGTON DC 20019

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of :
Willie Benjamin :
Application No. 61/136,803 : ON PETITION
Deposited: October 6, 2008 :
Title of Invention: Self Genarating Energy Supply System :

This is a decision on the correspondence filed April 9, 2009 which is treated as filing date petition under 37 CFR 1.53.

The petition is **DISMISSED AS INAPPROPRIATE**.

The NOTICE OF INCOMPLETE PROVISIONAL APPLICATION mailed February 11, 2009 noted that the application could not be accorded a filing date because the Specification was missing and that the filing of a complete specification as prescribed by 35 U.S.C. 112 is required. The NOTICE further noted that the filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the items required were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $400.00 petition fee (37 CFR 1.17(f)).

As petitioner has supplied a specification and has not asserted that the missing specification had previously been submitted, or that no such specification was necessary for the filing date, the application will be accorded a filing date of April 9, 2009, the date of deposit of the specification.

In view thereof, no petition fee is due. A refund of $400 will be issued in due course.

This matter is being referred to the Office of Patent Application Processing for further processing with a filing date of April 9, 2009.

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

Any further concerns 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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BG NEGEV TECHNOLOGIES LTD
PO BOX 653
BEER-SHEVA 84105 IL ISRAEL

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Givon, et al. :
Application No. 61/136,870 : ON PETITION
Filed: October 10, 2008 :

This is a decision on the letter, filed May 26, 2009, which is being treated as a petition for a refund 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application was filed on October 10, 2008. On November 25, 2008, the Office mailed a Notice to File Missing Parts of Provisional Application, stating that applicants must submit $5 to complete the statutory basic filing fee, as well as a $25 surcharge for its late filing. This Notice set an extendable period for reply of two (2) months. Applicants filed the $5 fee and $25 surcharge on February 2, 2009. However, the fees were not accompanied by a one month extension of time. Accordingly, on February 11, 2009, the Office mailed a Notice of

Incomplete Reply. The Notice did not set a new period for reply. On April 6, 2009, applicants filed a one month extension of time. However, on April 6, 2009, a three month extension of time would have been needed. On May 26, 2009, applicants filed a four month extension of time. However, on May 26, 2009, a five month extension of time would have been needed. Finally, on June 6, 2009, applicants filed a five month extension of time.

Applicants now request a refund of the four month extension of time fee paid on May 26, 2009. Applicants state that they paid the fee for a one month extension of time as instructed by the February 11, 2009 Notice and as instructed during a phone conversation with the Office.

Applicants' argument has been considered, but is not persuasive. As set forth above, the Notice of Incomplete Reply did not itself set a period for response. Therefore, the period for reply continued to run from the mailing date of the November 25, 2008 Notice to File Missing Parts. As for the alleged phone conversation, applicants are directed to 37 CFR 1.2, which states that applicants can not rely on any oral advice from the Office - business is to be conducted in writing.

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

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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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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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MAR 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Glimcher et al.	:	
Application Number: 61/137492	:	DECISION GRANTING PETITION
Filing Date: 07/31/2008	:	
Attorney Docket Number: HUI-075-1	:	

This is a decision in reference to the "PETITION TO GRANT ORIGINAL FILING DATE PURSUANT TO 37 C.F.R. §1.10," filed on September 17, 2008, requesting that the above-identified application be accorded a filing date of July 31, 2008, rather than the currently-accorded filing date of July 30, 2008.

The petition is **granted**.

Petitioner asserts that the application was deposited in Express Mail Service on July 31, 2008. In support, petitioner has provided a copy of Express Mail Customer Label EV957646445US (the same Express Mail number found on the itemized Provisional Application for Patent Cover Sheet accompanying the original application papers located in the official file). The "date in" as shown on the Express Mail label is "7-31-8". The Express Mail label additionally bears an official USPS postmark dated July 31, 2008.

As such, the showing of record is that the correct date of deposit in Express Mail is July 31, 2008.

In view of the above, the petition is granted.

The application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to July 31, 2008, and for issuance of a corrected Filing Receipt.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT L. RISPOLI
PRECISION COMBUSTION, INC.
410 SACKETT POINT ROAD
NORTH HAVEN CT 06473

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Pfefferle :
Application No. 61/137,642 : DECISION
Filed/Deposited: 1 August, 2008 :
Attorney Docket No. MOI 317 :

This is a decision on the petition filed on 26 September, 2008, under 37 C.F.R. §1.53, requesting amendment of the instant application to include previously omitted drawing FIG. 2 (by substitution of a new set of drawings) described in the specification, and thereby to obtain a filing date of 1 August, 2008, for FIG. 2 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 1 August, 2008.

On 22 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. 2 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 (e.g., 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 26 September, 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 the OPAP Notice instructed Petitioner to submit copies of the drawings if Petitioner averred they were present on deposit.

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 1 August, 2008.
- The Office record reflects that the drawing FIG. 2 described in the specification was missing on deposit.

Petitioner contends the drawing was present on deposit, but provides not date-stamped receipt card or electronic acknowledgement receipt evidencing that contention

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 nonprovisional application. 37 C.F.R. §1.78(a)(4).

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. 2 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 22 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 1 August, 2008, without drawing FIG. 2 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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Qinghua Wang
Rm7005-Queen-Wing
30 Bond Street
Toronto M5B 1W8
CANADA

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NOV 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Qinghua Wang :
Application No. 61/138,957 : DECISION
Filed: December 19, 2008 : ON PETITION
Title: Pharmaceutical Composition :
for the Treatment of Type 1 Diabetes :

This is in response to the communication "Re: App No: 61/138,957:Petition of filing date: Dec 19, 2008" filed April 9, 2009.

Application papers in the above-identified application were deposited via the Electronic Filing System on December 19, 2008. However, on January 28, 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.

At the same time, on January 28, 2009, applicant filed the drawings by mail. Accordingly, on February 10, 2009, the Office mailed applicant a filing receipt, showing that the application had been accorded a filing date of January 28, 2009 (the date of receipt of the drawings).

In response, applicant timely filed the instant petition, requesting a filing date as of the date of deposit via the Electronic Filing System. Petitioner states that he was unable to upload the drawings on filing due to a "system technique

problem." However, he does not provide any evidence of Office error, or proof of actual transmission of the drawings on the date of deposit. More importantly, he does not submit the $400 required for consideration of such an argument. Accordingly, this petition does not reach the merits of applicant's argument that the application is entitled to a filing date with the drawings as part of the disclosure.

However, *pro se* applicant also states that alternatively, the application is entitled to the filing date of December "18" 2008[1] without drawings. It is noted that if the application as filed is entitled to a filing date, any petition fee is subject to refund. Under the circumstances, the petition will be considered on the merits without a fee to the extent that applicant rightly states as shown by the record that the application is entitled to a filing date without drawings. In other words, the Office should have accorded this application a filing date without drawings.

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 nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter 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

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[1] The Electronic Acknowledgment Receipt and the papers of record confirm that this application was deposited on December 19, 2008, not December 18 as stated on petition. The reference to December 18 appears to be a typographical error as no evidence is submitted or argued to change the date of deposit from December 19 to December 18. See also applicant's letter of January 28, 2009, acknowledging deposit of application papers on December 19, 2008.

written description. As stated in MPEP § 601.01(g)[2], in such instances where drawings are referred to in the specification, the Office will accord a filing date and mail a Notice of Omitted Items, not a Notice of Incomplete Provisional Application.

A review of the application as deposited December 19, 2008, reveals that it contained at least one method (and composition) claim. In fact, 25 of the 26 claims appear to have been either method or composition claims. The Office should have mailed a Notice of Omitted Items indicating that the application papers had been accorded a filing date of December 19, 2008, but some of the figures of the drawings described in the specification are lacking. 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 19, 2008.

Accordingly, the petition is granted to the extent that the provisional application will be accorded the December 19, 2008 filing date with no drawings as a part of the original disclosure of the application. (No amendment to a provisional application may be made. Any nonprovisional application claiming the benefit of priority to this provisional application must be complete as filed and must be timely filed within twelve months of the filing date of this provisional application).

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, no petition fee has been charged.

This application is being forwarded to the Office of Patent Application Processing for:

- **Correction of the filing date to December 19, 2008;**
- **mailing of a corrected filing receipt;** and
- **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.**

[2] 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.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of :
George A. Digenis et al. :
Application No. 61/140,484 : ON PETITION
Filed: December 23, 2008 :
Attorney Docket No. **0011118.0561692** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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 Provisonal Application (Notice), mailed January 7, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 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).

As to item (1)

Petitioner was also required to submit the items that were omitted from the application "Figures 1-2" that were described in the specification. Therefore, the omitted figures must submit the before this application can not be revived.

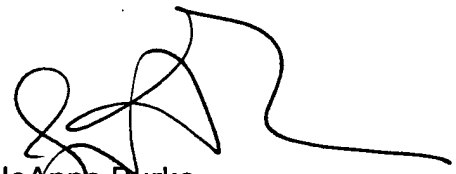
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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



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
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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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JUL 07 2010

OFFICE OF PETITIONS

In re Application of :
George A. Digenis et al. :
Application No. 61/140,484 : ON PETITION
Filed: December 23, 2008 :
Attorney Docket No. **0011118.0561692** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 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 Provisonal Application (Notice), mailed January 7, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 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 an oath or declaration, and surcharge, (2) the petition fee of $1,620 (3) a proper statement of unintentional delay.

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

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

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
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DIW Mar-09

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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MAR 0 9 2009

OFFICE OF PETITIONS

In re Application of
Dinh
Application Number: 61/140,718
Deposited: December 24, 2008
Attorney Docket Number: 577-921P

ON PETITION

This is a decision on the "PETITION ENTITLING APPLICATION TO ORIGINAL FILING DATE," filed on January 27, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of December 24, 2008.

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

The application was deposited on December 24, 2008, without drawings. Accordingly, on January 8, 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 had been deposited without drawings.

In response, on January 27, 2009, 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.

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 provisional 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 January 8, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of December 24, 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 deposit account.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to December 24, 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

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
61/142,246	01/02/2009	Les Okrasa	

CONFIRMATION NO. 2217

Cosimc Descent, LLC.
Box 249
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 **01/04/2010,** 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gerard Grand
299 Riverview Blvd.
St. Catharines L2T 3N3 CA

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of
Gerard Grand
Application No. 61/142,633
Filed: January 6, 2009

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 14, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 15, 2009. The Notice of Abandonment was mailed September 22, 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 statutory basic filing fee and the surcharge, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Application Processing for appropriate action on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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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THOMAS P O'CONNELL
1026A MASSACHUSETTS AVENUE
ARLINGTON MA 02476

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In re Application of	:	
Yakov Perper et al.	:	
Application No. 61/144,079	:	DECISION ON PETITION
Filed: January 12, 2009	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed February 13, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 14, 2009. A Notice of Abandonment was mailed October 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a provisional application cover sheet and a $25 surcharge fee, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the provisional application cover sheet and fee are accepted as being unintentionally delayed.

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 should be directed to the Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received December 9, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Yakov Perper
50 Valley Lane West
Valley Stream, NY 11581

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Alexandria, VA 22313-1450
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APR 19 2010

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Jin et al. :
Application No. 61/144089 :
Filing or 371(c) Date: 01/12/2009 :
Attorney Docket Number: : DECISION
090896P1 : ON PETITION

This is a decision on the Petition to Withdraw Holding of Incomplete Provisional Application with Petition Fee Set Forth in 37 CFR 1.117(f)," filed February 6, 2009, requesting the above-identified application be accorded a filing date of January 12, 2009. The petition is properly treated as a petition under 37 CFR 1.53(e).

The petition is granted.

The application was filed on January 12, 2009. On February 3, 2009, 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 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 March 24, 2009. Accord MPEP 601.01(f).

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of January 12, 2009, using the application papers filed on that date, and an indication that no drawings were present or required on filing.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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JAN 05 2010

OFFICE OF PETITIONS

In re Application of
Le et al.
Application No. 61/144,091
Filed: January 12, 2009
Attorney Docket No. 09-226

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The instant petition requests revival of the application. 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.

An additional $25.00 will be charged to petitioner's deposit account for the late surcharge required by the Notice to File Missing Parts.

As the Power of Attorney was only recently given to the petitioner, 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.

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 12, 2010, when it will become abandoned as a matter of law.

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

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

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
61/144,115	01/12/2009	Les Okrasa	

CONFIRMATION NO. 1043

Cosmic Descent, LLC.
Box 249
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 **01/04/2010,** 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

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Perry Felix :
Application Number: 61/145481 : ON PETITION
Filed: 01/16/2009 :
Attorney Docket Number: :
3100.000290 :

This is a decision on the petition filed on January 30, 2009, which is treated as a petition under 37 CFR 1.53 to accord the application, including a complete specification, a filing date of January 16, 2009.

The petition is **GRANTED**.

The application was transmitted via the USPTO's Electronic Filing System, EFS-Web, on January 16, 2009. The application papers received in the official file on January 16, 2009, consisted of three (3) pages of a transmittal letter, six (6) sheets of drawings, and two (2) pages of an N417 Electronic Acknowledgement Receipt.

Accordingly, on January 30, 2009, the subject petition was filed, whereby petitioner asserts that a complete application, including a specification, was filed on January 16, 2009. In support, petitioner states that it was informed by the Office that the file containing the specification was corrupted and could not be retrieved. Petitioner further points to the Acknowledgement Receipt as showing that 16 pages of specification were in fact filed on January 16, 2009. A copy of 16 pages of specification, including 14 pages of written description (including one cover page), one (1) page of claims, and one (1) page of abstract, have been included with the subject petition.

Petitioners assert that the replacement specification filed with the subject petition is "an exact replica" of the specification originally filed on January 16, 2009, and contains no new matter.

A review of Office electronic records indicates that due to a technical error, the specification filed on January 16, 2009 could not be accessed. As the Acknowledgement Receipt indicates receipt of 16 pages of specification, the showing of record is that 16 pages of specification were filed on January 16, 2009.

The application will be processed with a filing date of January 16, 2009, using the application papers filed on that date, and a copy of the specification, including the claims and abstract, supplied with the subject petition.

As the petition was not necessitated by an error on the part of petitioner, the fee paid with the subject petition will be credited to counsel's deposit account.

The application is forwarded to the Office of Patent Application Processing for further processing with a filing date of January 16, 2009, using the application papers filed on that date and the specification (including the claims and abstract) supplied with the subject petition.

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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OFFICE OF PETITIONS

PERKINELMER LAS, INC.
IP LEGAL DEPARTMENT
940 Winter Street
WALTHAM MA 02451-1457

In re Application of	:	
Robert Alan Hoult et al.	:	DECISION ON PETITION
Application No. 61/145,773	:	PURSUANT TO
Filed: January 20, 2009	:	37 C.F.R. § 1.182
Attorney Docket No. Tovar - NIS/DC /50320EP1	:	
Title: DIFFERENTIAL SCANNING CALORIMETRY	:	

This is a decision on the "PETITION TO ACCORD FILING DATE IN RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION," filed on April 6, 2009, requesting that the above-referenced application be accorded a filing date of January 20, 2009. 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 20, 2009. However, on February 5, 2009, the Office of Data Management mailed Applicant 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 drawings.[1]

In response, Applicant timely filed this petition, where it is asserted that drawings were not included when the application was filed.[2] Applicant has further included the petition fee.

Applicant's arguments and evidence have been considered. As Applicant has indicated, a review of the application confirms

[1] The electronic file has been reviewed, and there is no indication that drawings were provided on filing.
[2] Petition, page 1.

that as filed, the application contained at least one method claim. MPEP § 601.01(f) provides that:

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

Thus, pursuant to 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 20, 2009 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee will be refunded to Applicant's Deposit Account in due course.

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

- **correction of the filing date to January 20, 2009**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and;**
- **for issuance of a filing receipt.**

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

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.

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
Senior Attorney
Office of Petitions

cc: Christopher R. Rhodes
Lowrie, Lando & Anastasi, LLP
One Main Street
Cambridge, Massachusetts 02142

[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
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FEB 0 4 2010

OFFICE OF PETITIONS

PAUL SHARPE
BLAKE, CASSELS & GRAYDON LLP
20TH FLOOR
45 O'CONNOR STREET
OTTAWA ON K1P 1A4 CA CANADA

In re Application of
Marino Kulas
Application No. 61/145,832
Filed: January 20, 2009
Attorney Docket No. 102642/2

ON PETITION

This is a decision on the request for reconsideration filed June 19, 2009, under 37 CFR 1.183, seeking suspension of rules.

The instant application was filed via EFS on January 20, 2009 and thus a filing date of January 20, 2009 has been accorded. Petitioner instead requests an earlier filing date of December 2, 2008 because of the efforts made to have the application filed on that day, via facsimile transmission, as its filing date pursuant to 35 USC § 111 (b)(4) when data corresponding to that complete provisional application was received for the first time in the USPTO.

Since the papers transmitted by facsimile transmission are not entitled to a filing date pursuant to 37 CFR 1.6(d) and 1.8(a)(2)(i)(A), the application papers were not accepted and petitioner was advised to file the application by mail or hand carry the application to the Office.

Petitioner however opines that the rule on facsimile transmission of applications, as Set forth in 37 CFR § 1.6(d), is inconsistent with the Patent Law of the United States, 35 USC §111 (b)(4), there is prejudice in this case, there was a basis for confusion due to different practices between Canadian and United States patent offices on how to file and transmit applications, and these factors, collectively, make this an exceptional case. Thus, petitioner argues that justice would be served if the filing date were changed to December 2, 2008.

Petitioner prays for relief under 37 CFR 1.183 which provides that "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 Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed." But even if that were the authority for

the intended relief sought, the petition would fail as relief therein is reserved for extraordinary situations that don't traverse a statutory requirement.

The failure to file the application package by way of means consistent with the Patent Laws of the United States was not due to any extraordinary circumstance.

The Patent Laws of the United States are clear that a provisional application is not permitted to be filed by fax. If it is filed by fax, the Office warns applicant that the application will not be accorded the receipt (i.e. the date the original transmission by fax). Rather, it will be accorded the filing date when it is properly filed with the USPTO - here it is when they filed it by EFS. Since it appears to be an avoidable mistake, there is no justification that would warrant a waiver of the rules. See the following MPEP sections below as guidance.

M.P.E. 502.01

I. CORRESPONDENCE RELATIVE TO PATENTS AND PATENT APPLICATIONS WHERE FILING BY FACSIMILE TRANSMISSION IS NOT PERMITTED

(A) A document that is required by statute to be certified;

(B) A national patent application specification and drawing (provisional or nonprovisional) or other correspondence for the purpose of obtaining an application filing date, other than a continued prosecution application filed under 37 CFR 1.53(d);

Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations:

(1) Correspondence as specified in § 1.4(e), requiring an original signature;

(2) Certified documents as specified in § 1.4(f);

(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 that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile;

(4) Color drawings submitted under § § 1.81, 1.83 through 1.85, 1.152, 1.165,

The situations where transmissions by facsimile are prohibited are identified in 37 CFR 1.6(d)(1)-(9). Prohibitions cover situations where originals are required as specified in 37 CFR 1.4(e) and (f), and situations where accepting a facsimile transmission would be unduly burdensome on the Office. As a courtesy, the Office will attempt to notify senders whenever correspondence is sent to the Office by facsimile transmission that falls within one of these prohibitions.

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.

While it has been pointed out by petitioners that in Canada, the Canadian Patent Act authorizes and permits patent applications to be filed electronically by either facsimile or online transmissions of the data, that the filers routinely file papers at the USPTO using facsimile transmission as the mode of filing, though not aware of the exception carved out by 37 CFR § 1.6 (d)(3) that does not permit the use of facsimile transmissions for the filing of national patent applications by it reference to 37 CFR § 1.8(a)(2)(i)(A). (NOTE: Under 37 CFR § 1.9(a)(2) the definition of a "national application" includes a provisional application). Petitioners are advised that the filing of applications in the United States is made pursuant to the laws of the United States.

As petitioners acknowledge that they did not comply with the rules, they are not eligible for receiving a filing date other than the date of deposit. Petitioners are advised that a failure to comply is not an adequate basis for a waiver of the rules.

While no extraordinary circumstances have been presented, no relief can be granted under 37 CFR 1.183.

Accordingly, the petition under 37 CFR 1.183 is **DISMISSED**.

Deposit account no. 50-1456 has been charged in the amount of $400 for the petition under 37 CFR 1.183.

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

Otherwise, this matter is being referred to the Office of Patent Application 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
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LUIZ CLAUDIO DE MAGALHAES
R. INCONFIDENTES, 1075/402 – SAVASSI
BELO HORIZONTE 30140-BR

COPY MAILED
MAR 03 2010

In re Application of
Padula
Application No. 61/146,045
Filed: January 21, 2009
For: DEVICE FOR KINESITHERAPY AND TREATMENT OF THE OROFACIAL PAIN AND TEMPOROMANDIBULAR DISORDERS

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 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 February 3, 2009. A Notice of Abandonment was mailed on October 14, 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) and (2).

As to item (1), the required reply to the Notice mailed February 3, 2009, was not received with the above petition on December 14, 2009.

As to item (2), the credit card submitted with the petition on December 14, 2009 was submitted without a signature. Therefore, the required fees (petition fee $810.00 and surcharge fee $25.00) could not be processed.

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 15 2010

OFFICE OF PETITIONS

LUIZ CLAUDIO DE MAGALHAES
R. INCONFIDENTES, 1075/402 – SAVASSI
BELO HORIZONTE 30140-120 BR

In re Application of :
Padula :
Application No. 61/146,045 : ON PETITION
Filed: January 21, 2009 :
For: DEVICE FOR KINESITHERAPY AND :
TREATMENT OF THE OROFACIAL PAIN :
AND TEMPOROMANDIBULAR :
DISORDERS :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2010, 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 February 3, 2009. A Notice of Abandonment was mailed on October 14, 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 (1).

As to item (1), the required reply to the Notice mailed February 3, 2009, was not received with the above petition on April 30, 2010. A copy of the Notice mailed February 3, 2009, is enclosed for your convenience.

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

Enclosure: Copy of the Notice to File Missing Parts of Provisional Application mailed February 3, 2009.

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
61/146,045	01/21/2009	Joao Henrique Krahenbuhl Padula	

CONFIRMATION NO. 9283

Luiz Claudio de Magalhaes
R. Inconfidentes, 1075/ 402 - Savassi
Belo Horizonte, 30140-120
BRAZIL

FORMALITIES LETTER

OC000000034290125

Date Mailed: 02/03/2009

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.

/spathammavong/

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

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MAR 23 2010

OFFICE OF PETITIONS

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

In re Application of :
Frauke Henrike RININSLAND, et al :
Application No. 61/146,053 : DECISION ON PETITION
Filed: January 21, 2009 :
Attorney Docket No. G161 1010.P2 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed February 23, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the required fees; (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.

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

This application is being referred to the Office of Data Management for further processing in the normal course of business.

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

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
61/146,268	01/21/2009	Les Okrasa	

CONFIRMATION NO. 1443

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 **01/04/2010,** 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE CA 94086

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Werner et al.	:	
Application No. 61/146285	:	
Filing or 371(c) Date: 01/21/2009	:	ON PETITION
Attorney Docket Number:	:	
Cool-06900	:	

This is a decision on the Petition filed January 30, 2009, to expunge unintentionally submitted material under 37 CFR 1.59(b).

This Petition is hereby **granted**.

Petitioner files the present petition to expunge inadvertently submitted information and in support of the petition states that 1) the information was unintentionally submitted, and the failure to expunge the information would cause irreparable harm to the party who submitted the information; 2) that unintentionally submitted information has not otherwise been made public; 3) that Applicant's attorney shall retain such information for the period of any patent that claims priority to this application, and 4) that the unintentionally submitted information is not material information under 37 CFR 1.56.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue[1];
> (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
> (C) the information has not otherwise been made public;

[1] The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition satisfies the above requirements. Accordingly, the petition is granted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 28 2010

OFFICE OF PETITIONS

Joseph J. Policy
9031 Cypress Hollow Drive
Palm Beach Gardens FL 33418

In re Application of
Strobeck et al.
Application No.: 61/147109
Filing or 371(c) Date: 01/25/2009
Title of Invention:
THIS INVENTION RELATES TO SPIROSTANE COMPOUNDS, AND TO ANABOLIC, TISSUE REGENERATING AND SPIROSTANE COSMETIC COMPOSITIONS, AND A METHOD FOR CREATING FUNCTIONAL ANALOGS OF ECDYSTEROIDS FROM COMMERCIALLY AVAILABLE STEROIDAL INCREASE PHYSICAL ENDURANCE; AGENTS TO SLOW OR REVERSE THE AGING PROCESS; AGENTS TO REPAIR AND REPLACE DAMAGED TISSUE AND MUSCLE; AND IN OTHER MAMMALS SUCH AS DOGS AND CATS ACT AS REJUVENATING AGENT TO HELP REVERSE AGING AND EXTEND THE LIFESPAN

DECISION ON PETITION

This is a decision in response to the correspondence filed November 16, 2009, requesting reinstatement of the above provisional patent. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Provisional Application, mailed February 24, 2009. The Notice required an additional $$110.00 to complete the basic filing fee, and a $25.00 surcharge for late filing of the filing fee. 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 April 25, 2009.

The present petition

Applicant files the present petition and asserts that the Missing Parts indicated was filed on January 23, 2009. In support of this assertion, Applicant files a copy of a Fee Transmittal dated January 26, 2009, indicating that $110.00 was filed on that date, and a copy of an "Activity Report," which indicates a successful transmittal of 3 pages to this Office on January 26, 2009..

The present petition is signed by inventor Joseph Policy only.

Applicant is advised that the petition is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

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

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Joseph Policy) was ever given a power of attorney to act on behalf of inventor John E. Strobeck, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is not considered proper. The petition is dismissed.

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

For inquiries on the options available to Applicant, Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is again advised that there are two Offices: the Office of Independent Inventors, at 703-306-5568; and the Patent Assistance Center, at 1-800-786-9199, available to provide assistance in prosecuting patent applications.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADAMS INTELLECTUAL PROPERTY LAW, P.A.
SUITE 2350 CHARLOTTE PLAZA
201 SOUTH COLLEGE STREET
CHARLOTTE NC 28244

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of
John C. Evans
Application No. 61/147,207
Filed: January 26, 2009
Attorney Docket No. 2765/723PRO

DECISION ON PETITION

This is a decision on the request filed March 2, 2009, 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 $220.00, submitted on January 26, 2009, has been credited to petitioner's deposit account no. 01-0265.

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

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 20 2009

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of :
Daniel Flohr :
Application No. 61/147620 : ON PETITION
Filing or 371(c) Date: 01/27/2009 :
Title of Invention: :
DISTRIBUTED STORAGE OF GENERATED :
ELECTRICAL POWER :

This Decision is in response to a "Petition to Grant Filing Date of Provisional Application," filed June 2, 2009, to accord the application a filing date of January 27, 2009. The petition is properly treated under 37 CFR 1.53(e).

Background

Application papers in the above-identified application were deposited on January 27, 2009. This Office mailed a Notice of Incomplete Nonprovisional Application (Notice) on April 2, 2009, informing Applicant that a filing date had NOT been accorded the application because the specification was missing. A complete specification as prescribed by 35 USC § 112 was required.

The present petition

In response to the Notice, Applicant files the present petition and avers that a written specification is not necessary for an understanding of the subject matter sought to be patented. Applicant cites to *Vas-Cath, Inc. v. Maharkur*, 935 F.2d 155, 19 U.S.P.Q.2d 1111 (Fed. Cir. 1991), and the Manual of Patent Examining Procedure ("MPEP") 2163.

Applicable Law, Rules and MPEP

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's arguments have been considered. A review of the application as filed reveals it included four (4) pages of drawings, a Cover Sheet for Electronic Filing of Provisional Patent Application ((37 CFR 1.51(c)(1)), and a Fee Transmittal only.

To be entitled to a filing date, a provisional application need only have a written description in compliance with 35 U.S.C. § 112, first paragraph; and any required drawing(s). No claims are required. The issue then is whether the four (4) pages of drawings filed January 27, 2009, provide an adequate written description to meet the requirements of § 112, first paragraph, and entitle the application to a filing date. Neither Congress nor the Director have determined that drawings alone are not sufficient to meet the requirements of § 112, first paragraph for purposes of according a filing date under 35 U.S.C. 111(b)(4).

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 present application contains drawings, and claims are not required, the present 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 four (4) pages of 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 according of a filing date of January 27, 2009.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark Bonner
PO Box 23014
Moncton E1A6S-8 CA

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of :
Mark Bonner et al. :
Application No. 61/147,761 : DECISION ON PETITION
Filing Date: January 28, 2009 :
Attorney Docket No. **010 JW-70US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 Provisonal Application (Notice), mailed February 10, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Provisional Application Cover Sheet and Surcharge (2) the petition fee of $810 (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 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

cc: James Wedderburn
P.O. Box 23014
Moncton, New Brunswick, Canada E1A 6S6

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of Price et al. :
Application No. 61/148,610 : Decision on Petition
Filing Date: January 30, 2009 :
Attorney Docket No. CRD5471USPSP :

This is a decision in response to the petition under 37 CFR 1.53(e)(2) filed April 1, 2009.

The petition is **dismissed**.

The application was filed on January 30, 2009. The cover sheet stated 7 sheets of drawings were being filed and the Office received 7 sheets of drawings containing Figures 1 to 11. Page 46 of the specification included a drawing labeled "Figure 1" inserted into the text. The specification referenced a Figure 12. However, none of the drawing sheets contained a Figure 12.

On February 20, 2009, the Office of Patent Application Processing mailed a Notice stating Figure 12 did not appear to be part of the application as filed.

The present petition alleges Figure 12 referenced in the specification was included in the papers filed January 30, 2009, but was mislabeled as "Figure 1" and included on page 46 of the specification.

A review of the petition and the originally filed papers indicates Figure 12 referenced in the specification was included as "Figure 1" on page 46 of the specification. However, the "Notice Of Omitted Item(s)" mailed February 20, 2009, was correct in stating that Figure 12 described in the specification appeared to have been omitted from the application papers. Therefore, the "Notice" was properly mailed and will not be withdrawn.[1] Therefore, the Notice will not be vacated and the petition is dismissed.

---

[1] Attention is directed to MPEP 601.01(g) which reads in part:

> The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all the drawing figure(s) referred to in the specification, and the application [is entitled to a filing date], OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers . . . are lacking some of the figures of drawings described in the specification.

Each application received by OIPE must be individually reviewed for compliance with both the statutory requirements for according an application a filing date and for compliance with various requirements of the rules. Many of the applications concern complex technology. Accordingly, the employees of OIPE, who are not trained engineers or scientists, are not

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

In the future, petitioner should make certain when reviewing the application prior to filing that all figures of drawings are correctly labeled and described in the brief description and elsewhere in the specification. If a Notice of Omitted Items is mailed because a drawing is unlabeled or mislabeled *and* the application is a *nonprovisional* application petitioner may amend the specification to properly label the drawings and a petition is NOT necessary.[2]

Petitioner has filed an amendment to delete Figure 1 on page 46 of the specification and to add a drawing sheet containing Figure 12 to the drawings. However, provisional applications cannot be amended. Therefore, the amendment filed April 1, 2009, will not be entered.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 30, 2009, using the seven sheets of drawings filed on that date.

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

expected to make a detailed comparison of the written description and drawings. To do so would require a greater expenditure of time and resources, with a resulting increased cost, than are currently allocated. In the past, applicants and practitioners have indicated to the PTO that such increases are undesired. Therefore, if a Figure listed in the specification is not clearly present, OIPE sends a Notice of Missing Parts and does not examine the content of the drawings and specification to determine whether the Figure may have been unlabeled or mislabeled.

[2] New, properly labeled drawings may be entered by an examiner without petition so long as the new drawings contain no new matter. See MPEP 608.02(a). When an applicant wishes to amend the specification (by relabeling figures or otherwise) then a formal amendment must be filed rather than a petition.

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204-5137

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JUL 0 6 2009

OFFICE OF PETITIONS

In re Application of Hiles et al. :
Application No. 61/148,713 : Decision on Petition
Filing Date: January 30, 2009 :
Attorney Docket No. 3433-504 :

This is a decision on the petition filed April 20, 2009, to accord the application a filing date of January 30, 2009.

The application was filed on January 30, 2009.

The specification filed on January 30, 2009, described drawings containing Figures 1-3, but no drawings were filed on January 30, 2009.

On February 20, 2009, the Office mailed a Notice of Incomplete Provisional Application 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.

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 January 30, 2009.

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 February 20, 2009, was mailed in error and is hereby withdrawn.

The application will be accorded the January 30, 2009 filing date without drawings.

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 $400 petition fee has been credited back to petitioner's credit card.

A party may not amend a provisional application. Therefore, the drawing filed with the petition will not be entered as part of the application.

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

- **assignment of a filing date of January 30, 2009;**
- **for indication in Office records 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

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OCT 26 2009

OFFICE OF PETITIONS

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

In re Application of :
John G. BRUNO et al. :
Application No. 61/148,751 : DECISION ON PETITION
Filed: January 30, 2009 :
Attorney Docket No. 47163-P001P2 :

This is a decision on the petition under 37 CFR 1.53(e) filed March 19, 2009, to accord the original filing date.

The petition is **DIMISSED**.

Petitioner asserts that none of the information disclosed in the drawings is necessary to understand the invention. Petitioner also states that the figures are representations of the data presented in the specification.

A review of the specification indicates that drawings are required. Drawings are required under U.S.C. 113 for the understanding of the subject matter sought to be patented.

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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

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 /
Thurman K. Page
Petitions Examiner
Office of Petitions

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APR 22 2010

OFFICE OF PETITIONS

ATLANTIC COAST PATENT GROUP, LLC
P.O DRAWER 551375
FT. LAUDERDALE, FL 33355

In re Application of :
Kevin Armstong :
Application No. 61/149,044 : ON PETITION
Filed: February 2, 2009 :
Attorney Docket No. 155-1001 :

This is a decision on the petition under 37 CFR 1.137(b), filed by January 28, 2010, 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 February 18, 2009. 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 October 29, 2009. On January 28, 2010, 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. Accordingly, the failure to timely reply to the Notice of February 18, 2009 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

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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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Carpenter et al.	:	
Application Number: 61/149281	:	ON PETITION
Filed: 02/02/2009	:	
Attorney Docket Number: 25402-15279	:	

This is a decision on the "PETITION TO OBTAIN FILING DATE," filed on February 26, 2009, 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 February 2, 2009.

The petition is **GRANTED**.

The application was filed on February 2, 2009, without drawings. Accordingly, on February 17, 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 had been deposited without drawings.

On February 26, 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 February 17, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of February 2, 2009, 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 February 2, 2009.

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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ULMER & BERNE LLP
ATTN: DIANE BELL
600 VINE STREET
SUITE 2800
CINCINNATI OH 45202

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of :
Berkowitz :
Application No. 61/149,320 : ON PETITION
Deposited: February 2, 2009 :
Attorney Docket No. 32668-0002 :
For: ELECTRONIC ADVERTISING SYSTEM

This is a decision on the correspondence entitled, "PETITION FOR RELIEF PURSUANT TO 37 C.F.R. 1.181," filed April 13, 2009, to accord a filing date of February 2, 2009 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 February 2, 2009. However, on February 12, 2009, 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 February 2, 2009 describes Figures 1 and 2.

Petitioner requests that the application be accorded a February 2, 2009 filing date because any sketches and drawings as necessary for the understanding of the subject matter sought to be patented were submitted as part of the provisional application as contained in the 37 page Appendix to the specification. Petitioner states no further drawings are required.

A review of the Appendix reveals that it consists of 37 pages of drawings. However, none are labeled Figure 1 or Figure 2. It appears that Figures 1 and 2 were not filed on February 2, 2009. Petitioner has not provided evidence that any figures labeled Figure 1 and Figure 2 were filed on February 2, 2009. Nevertheless, at least one drawing was filed on February 2, 2009 in the Appendix.

In view of the above, the "Notice" mailed February 12, 2009 was mailed in error and is hereby withdrawn. The application as-filed is entitled to a filing date of February 2, 2009 without Figures 1 and 2. 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 **February 2, 2009** and the mailing of a filing receipt reflecting the February 2, 2009 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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/149,736	02/04/2009	Les Okrasa	

CONFIRMATION NO. 5610

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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

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MAR 08 2010

OFFICE OF PETITIONS

DAVID M. SIGMOND
10 ANSON ROAD #47-14
SINGAPORE 07990-3 SG SINGAPORE

In re Application of :
Chia-Chung WANG :
Application No. 61/150,980 : DECISION ON PETITION
Filed: February 9, 2009 :
Attorney Docket No. 3230-613 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 23, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the provisional application cover sheet and 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.

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

This application is being referred to the Office of Data Management for further processing in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
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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SEP 18 2009

OFFICE OF PETITIONS

GlaxoSmithKline
c/o Foley & Lardner LLP
975 Page Mill Road
Palo Alto CA 94304-1013

In re Application of	:	
Subramanian Baskaran et al.	:	
Application No. 61/151,180	:	DECISION ON
Filed: February 9, 2009	:	PETITION TO WITHDRAW
Attorney Docket No. 355491-4850 (G134R)	:	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 4, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Antoinette F. Konski does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSCAR A FOURNIER
9134 NORTH SWAN CIRCLE
BRENTWOOD MO 63144

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Application of :
Oscar Anthony Fournier :
Application No. 61/151,226 : ON PETITION
Filed: February 10, 2009 :
Title: Bi-Directional Adjustable :
Boat Fork Lifting Beam

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 3, 2009.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts, mailed February 24, 2009. This Notice set an extendable period for reply of two (2) months for applicant to submit the $110 statutory basic filing fee and the $25 surcharge for its late filing. In addition, the Notice informed applicant that Figure 4 appeared to have been omitted. No reply having been received, the application became abandoned on April 25, 2009. A Notice of Abandonment was mailed on November 5, 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]

Here, petitioner has not submitted a docket record. However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for her correspondence. In that case, if petitioner seeks to establish that he did not receive the February 24, 2009 Notice, petitioner must explain his system for keeping track of patent matters; where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how she reminds himself of response due dates and show that the due date for the February 24, 20009 Notice was not entered into that system.

While the showing of record is not sufficient to establish to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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 (3 pages)

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

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/151,455	02/10/2009	Les Okrasa	

CONFIRMATION NO. 2865

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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

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

FRANK LUCENTA
4417 W 86TH STREET S
TULSA OK 74132

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Frank Charles Lucenta :
Application No. 61/151,599 : DECISION GRANTING PETITION
Filed: February 11, 2009 :
Attorney Docket No. **4941607** :

This is a decision on the petition filed May 5, 2009, requesting that the above-identified provisional application be accorded a filing date of February 11, 2009. 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 February 11, 2009, without drawings. Accordingly, on March 4, 2009, 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 February 11, 2009.

Based on petitioners argument, this application will be accorded a filing date of February 11, 2009. 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 properly applied.

The application will be processed for filing date purposes using the application papers present on February 11, 2009.

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 February 11, 2009, 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/151,803	02/11/2009	Les Okrasa	

CONFIRMATION NO. 4290

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

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APR 09 2009

OFFICE OF PETITIONS

In re Application of :
David Welland :
Application No. 61/152,071 : NOTICE
Filed: February 12, 2009 :
Attorney Docket No. CYCL-29,333 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on March 10, 2009.

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) 272-3226.

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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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Eyal S. Ron et al. :
Application No. 61/152,304 : DECISION GRANTING PETITION
Filed: February 13, 2009 :
Attorney Docket No. CMT-001P2 :

This is a decision on the petition filed March 19, 2009, requesting that the above-identified provisional application be accorded a filing date of February 13, 2009. The petition is being treated under 37 CFR 1.53.

The petition is **GRANTED**.

The application was filed on February 13, 2009, without drawings. Accordingly, on March 16, 2009, 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, based on Method Claims being present in the application and requests that the application be accorded a filing date of February 13, 2009.

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). 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 and the names of all the inventors.

A review of the official file reveals that the application includes at least one method claim. Therefore, this application contains disclosure relating to a process or method.

In view of the above, the "Notice" mailed March 16, 2009, was mailed in error and is hereby withdrawn. The petition fee in the amount of $400.00 will be credited back to Deposit Account No. 07-1700.

The application is accorded a filing date of February 13, 2009, without drawings as a part of the original disclosure.

The application is being returned to the Office of Patent Application Processing for correction of the filing date to February 13, 2009, and correction of PTO records to show that zero (0) sheets of drawings were present on filing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of :
John L. TONER et al. :
Application No. 61/152,616 : DECISION ON PETITION
Filed: February 13, 2009 :
Attorney Docket No. 003168.0747 :
(7289USL2)

This is a decision on the petition under 37 CFR 1.53(e) filed May 20, 2009, to accord the original filing date.

The petition is **DIMISSED**.

Petitioner asserts that none of the information disclosed in the drawings is necessary to understand the invention. Petitioner also states that the figures are representations of the data presented in the specification.

A review of the specification indicates that drawings are required. Drawings are required under U.S.C. 113 for the understanding of the subject matter sought to be patented.

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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

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

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
61/153,356	02/18/2009	Les Okrasa	

CONFIRMATION NO. 1376

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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

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SAN DIEGO CA 92121

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JUL 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Becker et al.	:	
Application No. 61/153958	:	
Filing or 371(c) Date: 02/19/2009	:	
Attorney Docket Number:	:	DECISION
GP233-01.PR	:	ON PETITION

This is a decision on the Petition Under 37 CFR § 1.181, filed June 2, 2009, requesting the above-identified application be accorded a filing date of February 19, 2009. The petition is properly treated as a petition under 37 CFR 1.53.

The petition is granted.

Application papers were deposited in the above-identified application on February 19, 2009. On April 22, 2009, 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 inventions to be claimed concern methods and compositions, which the Office has viewed as not needing a drawing for understanding the invention under 35 U.S.C. § 113.

The MPEP provides:

> 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. Accord MPEP 601.01(f). (Emphasis supplied).

The MPEP § 601.01(g) states, in relevant part:

> The Office of Patent Application Processing (OPAP) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OPAP 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 drawings described in the specification. (Emphasis supplied).

The petition fee has been charged to Applicant's deposit account.

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of February 19, 2009, using the application papers filed on that date, indicating that no drawings were present or required on filing, and for the mailing of a Notice of Omitted Item(s).

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
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/154,338	02/20/2009	Les O	

CONFIRMATION NO. 4993

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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

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
61/154,386	02/21/2009	Les O	

CONFIRMATION NO. 5123

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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

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JUN 22 2009

OFFICE OF PETITIONS

OCCHIUTI ROHLICEK & TSAO LLP
10 FAWCETT STREET
CAMBRIDGE MA 02138

In re Application of :
Flytzani-Stephanopoulos, et al. :
Application No. 61/154,598 : DECISION GRANTING PETITION
Filed: February 23, 2009 :
Attorney Docket No. 70011-005P01

This is a decision on the petition under 37 CFR 1.53, filed May 13, 2009, to accord the above-identified application a filing date of February 23, 2009.

The application was deposited on February 23, 2009. However, on April 29, 2009, the Office of Initial Patent Examination 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.

As stated in MPEP § 601.01(f), it is the practice of the 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 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 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 April 29, 2009, 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 has been refunded to Deposit Account No. 50-4189.

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 23, 2009, 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

BRINKS HOFER GILSON & LIONE/UTAH
UTAH OFFICE
222 SOUTH MAIN STREET
SUITE 1930
SALT LAKE CITY UT 84101

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Kaiser et al.	:	
Application No. 61/155,414	:	ON PETITION
Filed: February 25, 2009	:	
Attorney Docket No. 3380-564	:	

This is a decision on the petition under 37 CFR 1.182, filed, December 4, 2009, to correct the name of inventor "Alan E. Pluess" to – Alan E. Pleuss –.

The petition is **DISMISSED** as being moot.

Petitioner contends that the inventor's name was incorrectly spelled due to a typographical error; specifically, the surname "Pluess" inversed the letters "e" and "u". 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; therefore the petition filed December 4, 2009, is not necessary.

A Corrected Filing Receipt with the proper spelling of the inventor's last name is enclosed.

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

Carl Friedman
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
61/155,414	02/25/2009		220	3380-564		

CONFIRMATION NO. 9632

CORRECTED FILING RECEIPT

28441
BRINKS HOFER GILSON & LIONE/UTAH
UTAH OFFICE
222 South Main Street
Suite 1930
SALT LAKE CITY, UT 84101

Date Mailed: 06/24/2010

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)

Joseph R. Kaiser, Port Washington, WI;
Alan E. Pleuss, Manitowoc, WI;

Power of Attorney:
Steven Shurtz--31424

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

If Required, Foreign Filing License Granted: 03/05/2009
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/155,414**
Projected Publication Date: None, application is not eligible for pre-grant publication
Non-Publication Request: No
Early Publication Request: No
Title

SWING DRIVE SYSTEM FOR CRANES

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
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
61/155,487	02/25/2009	Les O	

CONFIRMATION NO. 9905

Cosmic Descent, LLC.
Box 249
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 **02/01/2010,** 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard LEVINE	:	
Application No. 61/155,914	:	DECISION ON PETITION
Filed: February 27, 2009	:	
Attorney Docket No. 092429P1	:	

This is a decision on the petition under 37 CFR 1.53(e) filed June 24, 2009, to accord the original filing date.

The petition is **DIMISSED**.

Petitioner asserts that none of the information disclosed in the drawings is necessary to understand the invention since drawings simply depict exactly what is in the filed provisional and adds no new matter.

A review of the specification indicates that drawings are required. Drawings are required under U.S.C. 113 for the understanding of the subject matter sought to be patented.

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

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

COPY MAILED

JUN 12 2009

OFFICE OF PETITIONS

In re Application of :
Randell L. Mills :
Application No.61/156,305 : DECISION ON PETITION
Filed: February 27, 2009 :
Attorney Docket No. 08056.6141 :

This is a decision on the request filed May 27, 2009, 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 $110.00, submitted on February 27, 2009, has been credited to petitioner's credit card account, since the fee was paid by credit card..

As no further action will be taken in this application, the request for refund of the filing fee is also being construed as a request to expressly abandon the above-mentioned application. Accordingly, 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/
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

MORGAN LAW OFFICES, PLC
4635 S. LAKESHORE DR. SUITE 131
TEMPE, AZ 85282

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Application of :
Jeffrey A. Black :
Application No.: 61/157,021 : ON PETITION
Filed: March 3, 2009 :
Attorney Docket No.: PP0565 :

This is a decision in response to the Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f) filed May 7, 2010. This is also a decision in response to the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) was filed on May 8, 2010. The petitions are being treated as a single petition under the provisions of 37 CFR 1.137(b). A petition fee of $810 was paid with the petition on May 7, 2010 and with the petition on May 8, 2010; therefore, the $810 overpaid will be refunded to counsel's credit card.

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 March 12, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice and required the $110 basic filing fee and $25 surcharge for its late filing. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 13, 2009. A Notice of Abandonment was subsequently mailed on November 18, 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(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 Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition does not comply with item (1), the required reply. Petitioner submitted the requisite filing fees; however, the surcharge has not been paid. Accordingly, the petition cannot be granted at this time.

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)

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

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

MAILED

MAR 0 3 2010

OFFICE OF PETITIONS

In re Application of :
Michihiro KURAMOCHI et al :
Application No. 61/157,540 : DECISION ON PETITION
Filed: March 4, 2009 :
Attorney Docket No. 16113-1630P01 :

This is a decision on the petition under 37 CFR 1.48(d), filed, August 19, 2009, to correct the inventorship in the instant application.

The petition is **GRANTED**.

Petitioner requests that the U.S. Patent and Trademark Office (Office) update their records to add the name **ERIC E. ALTENDORF** as an inventor. Petitioner submits that due to a error as well inadvertently filed in the instant application. Petitioner further notes that a corrected Provisional Application for Patent Cover Sheet was submitted on filing the petition.

A review of the file indicates that a new and proper Provisional Application Cover Sheet was filed with the petition. Hence the petition is granted.

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) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Fish & Richardson
500 Arguello Street , Suit 500
Redwood City, CA 94063

Enclosed: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
61/157,540	03/04/2009		220	16113-1630P01		

CONFIRMATION NO. 9547

CORRECTED FILING RECEIPT

26192
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 03/02/2010

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)

Michihiro Kuramochi, Palo Alto, CA;
Leonard Wei, Sunnyvale, CA;
Sandor Dornbush, Mountain View, CA;
Hyung-Jin Kim, Sunnyvale, CA;
Michael David McNally, San Jose, CA;
Eric E. Altendorf, San Francisco, CA;

Power of Attorney:
Elspeth White--62133

If Required, Foreign Filing License Granted: 03/11/2009
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/157,540**
Projected Publication Date: None, application is not eligible for pre-grant publication
Non-Publication Request: No
Early Publication Request: No
Title

Framework for Testing Search Result Hypotheses

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

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 NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/158,311	03/06/2009	Les Okrasa	

CONFIRMATION NO. 2953

Cosmic Descent, LLC
Box 249
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 **03/03/2010,** 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SWISS TANNER, P.C.
P.O. BOX 1749
FOUR MAIN STREET, SUITE 100
LOS ALTOS, CA 94022

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SEP 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Richard D. Gless Jr. et al :
Application No. 61/158,743 : DECISION ON PETITION
Filed: March 10, 2009 : TO WITHDRAW
Attorney Docket No. 074019-2300 : 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 July 14, 2009.

The request is **APPROVED**.

A review of the file record indicates that Antoinette F. Konski: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Antoinette F. Konski has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Antoinette F. Konski
975 Page Mill Road
Palo Alto, CA 94304-1013

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Alexandria, VA 22313-1450
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KENNETH T. EMANUELSON
The Danamraj Law Group, P.C.
5910 N. CENTRAL EXPRESSWAY
Suite 1450
DALLAS, TX 75206

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Thomas G. Stephens :
Application No. 61/159,010 : ON PETITION
Filed: March 10, 2009 :
Attorney Docket No. 1420-1011PR :

This is a decision on the petition under 37 CFR 1.137(a), filed February 19, 2010, to revive the above identified application.

The application was held abandoned for failure to timely file a reply to the Notice to File Missing Parts of Provisional Application (Notice) mailed March 19, 2009. A Notice of Abandonment was mailed November 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of $110 for the filing fee and $25 for the surcharge; (2) the petition fee of $270; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. Therefore, the petition is **granted**.

This application 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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucel
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Richard D. Gless Jr. et al. :
Application No. 61/159,023 : DECISION ON PETITION
Filed: March 10, 2009 : TO WITHDRAW
Attorney Docket No. **074019-3100** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 14, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Antionette F. Konski or any attorneys associated with Customer Number 38706 does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

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

JoAnne Burke
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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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

JUN 11 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rowlings et al. :
Application Number: 61/159778 :
Filed: 03/12/2009 :
Attorney Docket Number: 18545-732.102 :

This is a decision on the petition filed on April 24, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of March 12, 2009.

The petition is **GRANTED**.

The application was filed on March 12, 2009, without drawings. Accordingly, on April 16, 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 had been deposited without drawings.

In response, on April 24, 2009, 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). 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 and the names of all the inventors.

A review of the record reveals that the application papers deposited on March 12, 2009, contain at least one method and one composition 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 April 16, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of March 12, 2009, without drawings as a part of the original disclosure. The petition fee will be refunded to counsel's deposit account.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to March 12, 2009, 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
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
61/160,101	03/13/2009	Les Okrasa	

CONFIRMATION NO. 1819

Cosmic Descent, LLC.
Box 249
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 **03/03/2010,** 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

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard D. Gless Jr. et al.	:	
Application No. 61/160,256	:	DECISION ON PETITION
Filed: March 13, 2009	:	TO WITHDRAW
Attorney Docket No. **074019-2500**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 14, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Antionette F. Konski or any attorneys associated with Customer Number 38706 does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

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

JoAnne Burke
Petitions Examiner
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
61/160,266	03/13/2009	Les Okrasa	

CONFIRMATION NO. 1405

CD
Box 2249
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 **03/03/2010,** 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

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Alfred Y. Wong
1017 Westholme Ave.
Los Angeles CA 90024

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Wong
Application No. 61/160,282
Filed: March 13, 2009
Attorney Docket No. N/A
For: METHOD AND SYSTEMS FOR REDIRECTING RF RADIATION AWAY FROM USERS, FOR WIRELESS DEVICES SUCH AS CELL PHONES, SMART PHONES AND OTHER SIMILAR DEVICES.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2010, 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 14, 2009, 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 15, 2009. A Notice of Abandonment was mailed on December 18, 2009.

Applicant has submitted a proper reply to the April 14, 2009 Notice in the form of an application data sheet and surcharge for its late filing, a proper statement of the unintentional nature of the delay in responding to the April 14, 2009 Notice, and the petition fee.

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, practitioner 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, practitioner 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.

All requirements under 37 CFR 1.137(b) being met, the petition 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

CC: VINCENT M. DELUCA
1300 I ST., N.W.
SUITE 1000 WEST TOWER
WASHINGTON, D.C. 20005

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AUG 25 2009

OFFICE OF PETITIONS

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

In re Application of :
Thomas Baby Sebastian, et al. :
Application No. 61/160,512 : DECISION ON PETITION
Filed: March 16, 2009 : TO WITHDRAW
Attorney Docket No. 3001DD-61145-P : FROM RECORD
:

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

The request is **NOT APPROVED**.

A review of the file record indicates that the Law Offices of James E. Walton, PLLC 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

In re Application of :
Peter Tu, et al. :
Application No. 61/160,543 : DECISION ON PETITION
Filed: March 16, 2009 : TO WITHDRAW
Attorney Docket No. 301DD-61146-P : FROM RECORD
:

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

The request is **NOT APPROVED**.

A review of the file record indicates that the Law Offices of James E. Walton, PLLC 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

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
61/160,768	03/17/2009	Les Okrasa	

CONFIRMATION NO. 3532

Cosmic Descent, LLC.
Box 249
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 **03/03/2010,** 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

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Commissioner for Patents
United States Patent and Trademark Office
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Jakob Ehrensvard :
Application No. 61/160,863 : ON PETITION
Filed: March 17, 2009 :
Attorney Docket No. 069486-0384708 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2010, 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 March 24, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 25, 2009. The Notice of Abandonment was mailed December 24, 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).

The $25 surcharge that was required by the Notice to File Missing Parts of Provisional Application Notice was omitted herewith 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 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 Johnson
Petitions Examiner
Office of Petitions

cc: **Jacob Ehrensvard**
Svanvagen 16
Taby, 18377
Sweden

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Jakob Ehrensvard	:	
Application No. 61/160,863	:	DECISION ON PETITION
Filed: March 17, 2009	:	
Attorney Docket No. 069486-0384708	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed March 24, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 25, 2009. The Notice of Abandonment was mailed December 24, 2009.

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

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

This application is being referred to the Office of Patent Application Processing for appropriate action on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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
61/161,123	03/18/2009	Les Okrasa	

CONFIRMATION NO. 5088

Cosmic Descent, LLC.
Box 249
Enfield, CT 06082

Date Mailed: 05/06/2010

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 **03/03/2010,** 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
United States Patent and Trademark Office
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FEB 0 1 2010

OFFICE OF PETITIONS

CLARK MARTIN
647 PHEASANT HILL
ACTON MA 01718

In re Application of :
Martin William MARTIN, et al :
Application No. 61/161,395 : DECISION ON PETITION
Filed: March 18, 2009 :
Attorney Docket No. CMZD1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 March 27, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $320 extension of time fee submitted with the petition on November 20, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by Treasury Check within the normal course of business.

Petitioner may request a refund of the extension of time fee filed October 1, 2009, or alternatively, it may be held in abeyance.

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

This application is being referred to the Office of Data Management for further processing in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SLATER & MATSIL, LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

COPY MAILED
MAR 04 2010

In re Application of
Yao-Te Huang, et al.
Application No. 61/161,592
Filed: March 19, 2009
Attorney Docket No. TSM08-0756P

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, December 28, 2009, to change the name of inventor "Emerson Cheng" to – Chun-Wen Cheng --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred back 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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
61/161,592	03/19/2009		220	TSM08-0756P		

CONFIRMATION NO. 7309

CORRECTED FILING RECEIPT

43859
SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

Date Mailed: 02/26/2010

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)

Yao-Te Huang, Hsin-Chu, TAIWAN;
Chia-Hua Chu, Zhubei City, TAIWAN;
Yu-Nu Hsu, Tainan City, TAIWAN;
Chun-Wen Cheng, Hsin-Chu, TAIWAN;
Li-Chung Peng, Hsin-Chu, TAIWAN;

Power of Attorney:
Brian Mair--58233

If Required, Foreign Filing License Granted: 02/26/2010
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 61/161,592**
Projected Publication Date: None, application is not eligible for pre-grant publication
Non-Publication Request: No
Early Publication Request: No
Title

Multi-Sacrificial Layer and Method

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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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Isaac Cohen.	:	
Application No. 61/162988	:	
Filing or 371(c) Date: 03/24/2009	:	
Attorney Docket Number:	:	DECISION
32373-706.102	:	ON PETITION

This is a decision on the Petition in Response to Notice of Incomplete Provisional Application, filed April 24, 2009, requesting the above-identified application be accorded a filing date of March 24, 2009. The petition is properly treated as a petition under 37 CFR 1.53(e).

The petition is granted.

The application was filed on March 24, 2009. On April 20, 2009, 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 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 March 24, 2009. Accord MPEP 601.01(f).

The petition fee has been charged to Applicant's deposit account.

This application is being referred to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of March 24, 2009, using the application papers filed on that date, and an indication that no drawings were present or required on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 01 2010

In re Application of	:	
Juejun HU et al.	:	
Application No. 61/164,255	:	DECISION ON PETITION
Filed: March 27, 2009	:	
Attorney Docket No. M0656.70184US00	:	

This is a decision on the petition under 37 CFR 1.53(e), filed June 12, 2009, to accord a filing date based on the date of deposit.

The petition is **DIMISSED**.

Petitioner requests that the application be granted the filing date of January 06, 2009 because figure 1 is not necessary for the understanding of the subject matter, because the drawing is schematic in nature, and provides an illustration of certain disclosed embodiments.

A review of the specification indicates that drawings are required. Drawings are required under U.S.C. 113 for the understanding of the subject matter sought to be patented.

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.

It has been the practice of the United States Patent and Trademark Office to consider drawings as being necessary when the disclosure of an application is directed to a new article or apparatus. Here the invention does not lie in the biological proteins other substrate markers, but in a detector per se.

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

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
61/164,255	03/27/2009	Juejun Hu	M0656.70184US00

CONFIRMATION NO. 8636

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

FORMALITIES LETTER

Date Mailed: 04/15/2009

NOTICE OF INCOMPLETE PROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(c)

A filing date has NOT been accorded to the above-identified PROVISIONAL APPLICATION papers for the following reason(s) indicated below.

All of the items noted below **must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or the proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the items required were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $400.00 petition fee (37 CFR 1.17(f)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."
  Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).

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.

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MAR 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Mendez	:	DECISION ON PETITION
Application No. 61/164,369	:	TO WITHDRAW
Filed: March 27, 2009	:	FROM RECORD
Attorney Docket No. 35430-748.101	:	

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 30, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Maya Skubatch does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Maya Skubatch not having power of attorney. See MPEP §§ 601.03 and 405.

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

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

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

Joan Olszewski
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

MICHAEL BAZZONE
526 BRADDOCK AVENUE
TURTLE CREEK, PA 15145

COPY MAILED
MAR 15 2010

In re Application of
Michael Louis Bazzone
Application No. 61/164,686
Filed: March 30, 2009
Attorney Docket No.

ON PETITION

This is in response to the communication, filed January 4, 2010, 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 15, 2009, 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 June 16, 2009, for failure to submit a timely response to the Notice. On December 24, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the April 15, 2009 Notice. Specifically, petitioner states that the Notice was never 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 (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 15, 2009, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after April 15, 2009, to demonstrate non-receipt 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 himself, or any other person at the address who may have handled the Notice, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the April 15, 2009 Notice to File Missing Parts of Provisional Application (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 15, 2009; the period when he would have received the Notice.

In the present petition, while petitioner did submit any a copy of a mail log with the petition, petitioner did not submit any statements 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 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the 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 April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
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 Office action dated April 15, 2009.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/164,686	03/30/2009	Michael Louis Bazzone	

CONFIRMATION NO. 1312

Michael Bazzone
526 Braddock Avenue
Turtle Creek, PA 15145

FORMALITIES LETTER

OC000000035462363

Date Mailed: 04/15/2009

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.

/atesfaye/

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

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GEORGIA TECH RESEARCH CORPORATION
OFFICE OF TECHNOLOGY LICENSING
505 TENTH STREET, NW
ATLANTA GA 30332-0415

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SEP 29 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Zhong Lin Wang et al :
Application No: 61/165,191 :
Filed: March 31, 2009 :
Attorney Docket No.:4809 :
:

This is a decision on the paper filed July 13, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of March 31, 2009.

The petition is **GRANTED**.

The application was filed on March 31, 2009, without drawings. Accordingly, on June 2, 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 had been deposited without drawings.

In response, on July 13, 2009, the subject petition was filed.

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 March 31, 2009, 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.

Petitioner didn't state that drawings are not required. However, because of the method claims present upon filing, the Office is treating this matter as a case in which drawings are not required.

In view of the above, the Notice of Incomplete Provisional Application mailed on June 2, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of March 31, 2009, **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 March 31, 2009, 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 571 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JUN 16 2009

OFFICE OF PETITIONS

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

In re Application of :
Shipley, et al. :
Filed: April 1, 2009 : ON PETITION
Application No. 61/165,722 :
Atty. Dkt. No.: 0116705.0566006 :

This decision is in response to the petition, filed April 27, 2009, to accord the above-identified application a filing date of April 1, 2009 with drawings as part of the original disclosure of application.

The petition is hereby GRANTED.

The above-identified application was filed April 1, 2009. The Notice of Incomplete Provisional Application (Notice) mailed April 13, 2009 indicated that the application had not been accorded a filing date because the application did not comply with the provisions of 35 USC 113 in that the application appeared to have been submitted without drawings.

The Notice permitted applicants to either: (I) petition for date of deposit; (II) petition for later filing date; or, (III) accept the application as deposited in the USPTO.

Petitioners request that the application be accorded a filing date of April 1, 2009 and argue that the application as deposited April 1, 2009 included drawings on pages 9, 10, and 17 of the specification.

The provisional application papers as submitted consisted of 17 pages of text. The text contained drawings embedded therein.

Pursuant to 35 USC 111(b)(4), 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. Careful consideration of the arguments presented along with careful review the application papers as received April 1, 2009 reveals that all conditions for obtaining a filing date in this provisional application were met on April 1, 2009.

Under the facts of this case, this provisional application is entitled to a filing date as of the date of receipt of the 17 pages of specification that contained drawing embedded therein. 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. The Notice mailed April 13, 2009 was mailed in error and is withdrawn.

No fee is due in connection with this matter.

This provisional application is being forwarded to the Office of Patent Application Processing with a filing date of April 1, 2009 for processing with drawings having been embedded in the specification at pages 9, 10, and 17.

The application will be forwarded to the Office of Patent Application Processing for processing with a filing date of April 1, 2009 with an indication that drawing figures appear in the record at pages 9, 10, and 17 of the specification.

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
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/166,221	04/02/2009	Les Okrasa	

CONFIRMATION NO. 6758

Cosmic Descent, LLC.
Box 249
Enfield, CT 06082

Date Mailed: 05/06/2010

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 **04/03/2010,** 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LARRY BURKE
128 ROSE PARK DRIVE
TORONTO M4T 1R5 CA CANADA

COPY MAILED

DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Larry Burke :
Application No. 61/166,243 : ON PETITION
Filed: April 2, 2009 :

This is in response to the letter filed October 13, 2009, which is being 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above application became abandoned for failure to timely file a timely reply to the Notice to File Missing Parts, mailed April 28, 2009. This Notice set an extendable period for reply of two (2) months for applicant to submit the provisional application cover sheet, as well as the $25 surcharge for its late filing. No reply having been received, the application became abandoned on June 29, 2009. Applicant filed the cover sheet and surcharge on August 24, 2009. However, on August 24, 2009, a two month extension of time would have been needed to make the reply timely. Applicant was notified of this

fact in a Notice of Incomplete Reply, mailed September 15, 2009.

Applicant filed the instant letter on October 15, 2009, explaining that the Notice to File Missing Parts was improperly delivered to applicant's neighbor, and that applicant did not receive the Notice from his neighbor until August 17, 2009. In support thereof, applicant has included a letter from his neighbor attesting to such.

The application is currently abandoned. A petition to withdraw the holding of abandonment is only appropriate in those situations where an applicant is arguing that there was no abandonment in fact - e.g. where an applicant did timely reply to an Office action, or where the Office made a mistake in mailing the Office action to an incorrect address. A review of the application does not reveal that any mistake on the part of the Office took place. Rather, the error appears to have been committed by the US Postal Service.

Petitioner may wish to consider reviving the application pursuant to 37 CFR 1.137(a) (unavoidable delay).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l), currently $270 for a small entity; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay adopt 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]

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[1] 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) (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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THE HARRINGTON PRACTICE PLLC
10130 MALLARD CREEK ROAD
SUITE 110
CHARLOTTE, NC 28262-6001

COPY MAILED

MAY 27 2009

OFFICE OF PETITIONS

In re Application of :
Steve Holmes :
Application No. 61/166,426 : DECISION GRANTING PETITION
Filed: April 3, 2009 :
Attorney Docket No. 10205.001:

This is a decision on the "PETITION TO ACCORD A FILING DATE," filed on April 3, 2009, which is treated as a petition under 37 CFR 1.10(e) to accord the above-identified application a filing date of April 3, 2008.

The petition is **granted**.

Petitioner alleges that the application was originally deposited in "Express Mail" service with the United States Postal Service (USPS) on April 3, 2009, but subsequently lost after receipt at the USPTO. Petitioner states that the itemized postcard was not received from the USPTO; however, the inadvertent oversight was not discovered until counsel was preparing to file the corresponding non-provisional application. A copy of the Express Mailing Receipt No. ED 784609795 US showing a date in of April 3, 2008, has been provided, as well as a copy of the application papers, including an itemized Certificate of Express Mailing which bears the same receipt number.

37 CFR 1.10(e) provides that:

> Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "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 is found to comply with all of the above requirements.

Accordingly, the application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to **April 3, 2008**, using the application papers submitted with the present petition on April 3, 2009.

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

Sherry D. Brinkley

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

Paper No.

Stanford Office of Technology Licensing
1705 El Camino Real
Palo Alto CA 94306

COPY MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Kevin Zi Jun Chao et al.	:	DECISION ON PETITION
Application No. 61/166,654	:	PURSUANT TO
Filed: April 3, 2009	:	37 C.F.R. § 1.182
Title: RETRACTION SYSTEM ADAPTED FOR USE WITHIN A PATIENT'S BODY CAVITY	:	

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL PATENT APPLICATION UNDER 37 C.F.R. § 1.53(e)," filed May 27, 2009. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.182, requesting that the above-identified application, including Figures 1a and 1b, be accorded a filing date of April 3, 2009, as part of the original disclosure.

The petition is **DISMISSED**.

Receipt of the $400 petition fee is acknowledged.

The application was deposited on April 3, 2009. However, on April 30, 2009, the Office of Data Management mailed a "Notice of Omitted Item(s) in a Provisional Application - Filing Date Granted," (notice), stating that the application had been accorded a filing date, and advising applicants that Figures 1a and 1b appeared to have been omitted on filing. The notice set a two-month period for reply.

In response, on May 27, 2009, Applicant filed this petition. Petitioner has asserted that Figures 1a and 1b were included on initial deposit, but has provided no evidentiary support that would substantiate this assertion. As such, the record does not support a finding that these figures were included on initial deposit.

It is noted that the electronic record has been reviewed and Figures 2-7 have been located. Figures 1a and 1b have not been located in the electronic file.

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, 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. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner will note that the PTO has a well-established and well-publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. A postcard receipt that *itemizes and properly identifies* the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. See MPEP § 503. **If Petitioner is in possession of the type of evidentiary support discussed in MPEP § 503 (or 37 C.F.R. § 1.8(b)), such evidence should be included with any renewed petition.**

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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[1] Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
[2] Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
[3] (571) 273-8300- please note this is a central facsimile number.
[4] https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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.[5]

Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 16 2010

OFFICE OF PETITIONS

Stanford Office of Technology Licensing
1705 El Camino Real
Palo Alto CA 94306

In re Application of	:	
Kevin Zi Jun Chao et al.	:	DECISION ON RENEWED
Application No. 61/166,654	:	PETITION PURSUANT TO
Filed: April 3, 2009	:	37 C.F.R. § 1.182 AND
Title: RETRACTION SYSTEM ADAPTED	:	ORIGINAL PETIITON
FOR USE WITHIN A PATIENT'S BODY	:	PURSUANT TO
CAVITY	:	37 C.F.R. § 1.137(B)

This is a decision on the petition filed on January 26, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application. This submission is being construed to contain a renewed petition pursuant to 37 C.F.R. § 1.182, requesting that the above-identified application be accorded a filing date of April 3, 2009, without Figures 1a and 1b, which were not a part of the original disclosure.

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

The renewed petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**.

Procedural History

The application was deposited on April 3, 2009. However, on April 30, 2009, the Office of Data Management mailed a "Notice of Omitted Item(s) in a Provisional Application - Filing Date Granted," (notice), stating that the application had been accorded a filing date, and advising applicants that Figures 1a and 1b appeared to have been omitted on filing. The notice set a two-month period for reply.

In response, on May 27, 2009, Applicant filed an original petition pursuant to 37 C.F.R. § 1.182, where Petitioner asserted that Figures 1a and 1b were included on initial deposit. The original petition pursuant to 37 C.F.R. § 1.182 was dismissed via the mailing of a decision on June 22, 2009, which set a two-month period for response. 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 August 23, 2009. A notice of abandonment was mailed on January 8, 2010.

The petition pursuant to 37 C.F.R. § 1.137(b):

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

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

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has submitted the petition fee and a statement that is being construed as the proper statement of unintentional delay. The concurrently filed petition pursuant to 37 C.F.R. § 1.182 will serve as the required response. 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 petition pursuant to 37 C.F.R. § 1.182:

With this petition, Petitioner has included the following language: "applicants had decided to not (emphasis included) repetition (in response to the dismissal of the original petition pursuant to 37 C.F.R. § 1.182)." This language is being construed as an assertion that Petitioner accepts the provisional application as originally deposited with the Office, *i.e.* without the inclusion of Figures 1a and 1b. Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

This renewed petition pursuant to 37 C.F.R. § 1.182 is considered fully responsive to the decision on the original petition pursuant to 37 C.F.R. § 1.182.

Petitioner is reminded that Provisional applications cannot be amended.[2]

Conclusion

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing. Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to any failure of that

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[1] See Rule 1.137(d).
[2] See 37 C.F.R. § 1.53(c). See also M.P.E.P. § 601.01(b).

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.[3]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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CICHOSZ & CICHOSZ, PLLC
129 E. COMMERCE
MILFORD MI 48381

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JUL 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Mudalige et al.	:	
Application Number: 61/167130	:	ON PETITION
Filing Date: 04/06/2009	:	
Attorney Docket Number:	:	
P009092/RD/KAM	:	

This is a decision on the "PETITION AND RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION," filed on June 16, 2009, which is treated as a petition to withdraw the Notice of Omitted Items in a Provisional Application mailed on April 16, 2009.

The petition is **DISMISSED**.

On April 6, 2009, the application was filed. The original application papers included, *inter alia*, 89 pages of specification consisting of 86 pages of text including drawings as well as two (2) pages, numbered Pages 88 & 89, respectively, containing unlabeled drawings, and one (1) page containing a claim, as well as 20 sheets of drawings containing Figures 1-41. The specification referred to Figures 1-44 of the drawings.

Accordingly, on April 16, 2009, the Office of Patent Application Processing mailed a "Notice" stating that the application had been accorded a filing date of April 6, 2009, and advising applicant that Figures 42-44 described in the specification appeared to have been omitted.

In response, the present petition was filed on June 16, 2009. Petitioner explains that Figures 42-44 were not missing on April 6, 2009. Instead, states petitioner, Figures 42-44 were "embedded in the original specification at pages 78, 85, and 86." Petitioners have supplied with the petition, *inter alia*, drawing sheets containing Figures 42-44.

37 CFR 1.84(t) states that the sheets of drawings should be

numbered in consecutive Arabic numerals, starting with 1, within the sight as defined in paragraph (g) of this section.

It is obvious from the petition that no drawing was actually missing on April 6, 2009. Rather, the drawings of Figures 42-44 were not included with the drawing sheets, but were placed in the specification as a result of applicant's filing error. However, the "Notice" mailed on April 16, 2009, was correct in stating that Figures 42-44 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

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

The application will be processed using only the application papers filed on April 6, 2009. The copies of the drawing sheets supplied with the present petition on June 16, 2009, will not be used for processing, but will be retained in the application file.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of April 6, 2009, using only the application papers filed on that date.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
James Sabry et al.	:	
Application No. 61/167,448	:	DECISION ON PETITION
Filed: April 7, 2009	:	TO WITHDRAW
Attorney Docket No. **074019-2850**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 14, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Antionette F. Konski or any attorneys associated with Customer Number 38706 does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

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

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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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE, SUITE 3000
CHICAGO, IL 60606

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MAR 12 2010

In re Application of :
Matthew K. MURPHY, et *al.* :
Application No. 61/168,497 : DECISION ON PETITION UNDER
Filed: April 10, 2009 : 37 CFR 1.182 AND 37 CFR 1.137(b)
Attorney Docket No. **505254.00019** :

This is a decision on the petition under 37 CFR § I. I82, filed March 10, 2010 to expedited decision and the petition under the unintentional provisions of 37 CFR § 1.137(b), filed March 2, 2010, to revive the above-identified application.

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

The petition under 37 CFR 1.137(b) 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 June 4, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a provisional application cover sheet having the information required by the notice and surcharge fee of $50; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The $50 surcharge for late submission of the missing provisional application cover sheet has been charged to petitioner's Deposit Account No. 19-0733 as authorized in the Request to Expedite filed March 10, 2010.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Ramesh Krishnmurthy
Petitions Examiner
Office of Petitions

PTO/SB/64 (10-05)
Approved for usethrough 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) 505254.00019

First named inventor: Matthew K. Murphy

Application No.: 61/168,497 Art Unit: not assigned

Filed: April 10, 2009 Examiner: not assigned

Title: Light Assembly and Light Emitting Diode Drive Circuitry

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)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee $1,620 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the Notice to File Missing Parts in the form of a complete Provisional Application for Patent Cover Sheet (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.

03/15/2010 LNTED1 00000005 190733 61168497

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. Box1450, 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 a period equivalent to the period of abandonment 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)(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.

Linda A. Kuczma — Signature

March 2, 2010 — Date

Linda A. Kuczma — Typed or printed name

30,861 — Registration No., if applicable

Banner & Witcoff, Ltd.

312.463.5000 — Telephone No.

Address

10 South Wacker Drive – 3000, Chicago, IL 60606

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☒ Other : Provisional Application for Patent Cover Sheet.

13920001

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
61/168,497	04/10/2009	Matthew K. Murphy	505254.00019

CONFIRMATION NO. 5980

22908
BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

FORMALITIES LETTER

OC000000036218735

Date Mailed: 06/04/2009

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 **$50** for a non-small entity, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$50** for a non-small entity
- **$50** Surcharge.

Document Description: Provisional Cover Sheet (SB16)

PTO/SB/16 (04-07)
Approved for use through 06/30/2010 OMB 0651-0032
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

Provisional Application for Patent Cover Sheet

This is a request for filing a PROVISIONAL APPLICATION FOR PATENT under 37 CFR 1.53(c)

Inventor(s)

Inventor 1 — Remove

Given Name	Middle Name	Family Name	City	State	Country
Matthew	K.	Murphy	Mukwonago	WI	US

Inventor 2 — Remove

Given Name	Middle Name	Family Name	City	State	Country
Robert		Boros	Mount Prospect	IL	US

Inventor 3 — Remove

Given Name	Middle Name	Family Name	City	State	Country
Eric		Boman	Mukwonago	WI	US

Inventor 4 — Remove

Given Name	Middle Name	Family Name	City	State	Country
Richard		Bronson	Pleasant Prairie	WI	US

Inventor 5 — Remove

Given Name	Middle Name	Family Name	City	State	Country
Timothy		Kozeny	Roselle	IL	US

All Inventors Must Be Listed – Additional Inventor Information blocks may be generated within this form by selecting the **Add** button. — Add

Title of Invention	Light Assembly and Light Emitting Diode Drive Circuitry
Attorney Docket Number (if applicable)	505254.00019

Correspondence Address

Direct all correspondence to (select one):

◉ The address corresponding to Customer Number	○ Firm or Individual Name
Customer Number	22908

PTO/SB/16 (04-07)
Approved for use through 06/30/2010 OMB 0651-0032
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

The invention was made by an agency of the United States Government or under a contract with an agency of the United States Government.
◉ No.
○ Yes, the name of the U.S. Government agency and the Government contract number are:

PTO/SB/16 (04-07)
Approved for use through 06/30/2010 OMB 0651-0032
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

Entity Status

Applicant claims small entity status under 37 CFR 1.27

○ Yes, applicant qualifies for small entity status under 37 CFR 1.27

◉ No

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 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 CFR1.14). 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

Please see 37 CFR 1.4(d) for the form of the signature.

Signature	Linda A. Kuczma			Date (YYYY-MM-DD)	2010-3-02
First Name	Linda	Last Name	Kuczma	Registration Number (If appropriate)	30861

This collection of information is required by 37 CFR 1.51. 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 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in handling the provisional application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENTS ON DEMAND, P.A.-GENERAL
4581 WESTON ROAD
SUITE 345
WESTON FL 33331

COPY MAILED
MAR 02 2010

In re Application of	:	
Rajiv SINGH et al.	:	
Application No. 61/169,551	:	DECISION ON PETITION
Filed: April 15, 2009	:	
Attorney Docket No. SM90001P	:	

This is a decision on the petition under 37 CFR 1.53(e), filed May 08, 2009, to accord a filing date based on the date of deposit.

The petition is **DISMISSED**.

Petitioner requests that the application be granted the filing date of April 15, 2009, because applicants assert that the drawings were submitted at the time of filing but corrupted in transfer. A review of the Office records indicates that the drawing sheets submitted to EFS-WEB included blank pages with and undefined error. Also, petitioner did not submit the required drawings as required under 37 CFR 1.53 with the petition.

The requests cannot be granted because in view of the petition, petitioner has not provided the Office with the drawings required under 37 CFR 1.53(c).

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 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 Michelle R. Eason at (571) 272-4231.

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

HOLGER MARCEL JAENISCH
29383 MCKEE RD.
TONEY AL 35773

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of
Holger Marcel Jaenisch et al
Application No. 61/169,559
Filed: April 15, 2009
For: DIABETIC TUNED NON-INVASIVE BLOOD SUGAR ESTIMATION USING DATA MODELS

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed April 20, 2009.

The request is **DISMISSED**.

The request is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request is submitted by Stanley Kim and **not signed**. See 37 CFR 1.33(b).

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

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

HOLGER MARCEL JAENISCH
29383 MCKEE RD.
TONEY AL 35773

MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Application of
Holger Marcel Jaenisch et al
Application No. 61/169,559
Filed: April 15, 2009
For: DIABETIC TUNED NON-INVASIVE BLEED SUGAR ESTIMATION USING DATA MODELS

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed June 8, 2009.

The request is **DISMISSED**.

Petitioner request a refund of the filing fee paid on April 15, 2009 in the above application. Petitioner is encouraged to note the below:

MPEP 607.02 states:

When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is **not** a "fee paid by mistake" within the meaning of 35 U.S.C. 41(d).

37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee.

As can be seen from the above, the request for refund is dismissed.

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hyper Tech Research, Inc.
1275 Kinnear Road
Columbus OH 43212

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of :
Peng et al. :
Application No. 61/169,854 : ON PETITION
Filed: April 16, 2009 :
For: REINFORCED NB3SN :
SUPERCONDUCTING WIRE WITH :
IMPROVED TRANSPORT PROPERTIES :
BY USING NB, NB-TA, NB SANDWICH :
BARRIER IN INDIVIDUAL SUBELEMENT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2010, 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.

On May 4, 2009, the Office mailed a Notice to File Missing Papers of a Provisional Application, which set a two month shortened statutory period to reply. The application became abandoned on July 5, 2009, for failure to submit a timely response to the Notice to File Missing Parts. On January 15, 2010, the Office mailed a Notice of Abandonment.

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

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

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition is not properly signed because only inventor Peng has executed the petition. The other two inventors have failed to execute the petition.

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.

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

THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE
OFFICE OF TECHNOLOGY TRANSFER – 269 GRIGG HALL
9201 UNIVERSITY CITY BLVD.
CHARLOTTE, NC 28223-0001

MAILED

MAR 3 1 2010

OFFICE OF PETITIONS

In re Application of :
David Andrew Carr et al :
Application No. 61/171,496 : ON PETITION
Filed: April 22, 2009 :
Attorney Docket No. 09-030PRO1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application (Notice) mailed May 6, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 7, 2009.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Application of :
W. Clark Rogers :
Application No. 61/171,893 : DECISION ON PETITION
Filed: 00/00/0000 :
Attorney Docket No. 4784-27PR2 :

This is a decision on the petition filed November 9, 2009 requesting that the above-identified provisional application be accorded a filing date of April 23, 2009.

The application was deposited on April 23, 2009. However, on October 8, 2009, the Office of Data Management, Application Assistance Unit 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 November 9, 2009, the present petition was filed. Petitioner argues that the application papers filed on April 23, 2009, included a number of drawings figures and that drawings figures, alone, may be relied on to satisfy the "written description" requirement of 35 U.S.C. 112, first paragraph.

Petitioner also argues that "One of skill in this art would be able to discern the operation of the sleeper sofa from the figures alone (i.e., without text. As such, it was never Applicant's intention to include text that accompanied the figures".

The petition is dismissed.

A review of the record discloses three sheets of drawings, but fails to disclose a specification or written text that could be construed as a specification.

Petitioner should note that MPEP 601 (35 U.S.C. 111(b)) states in part that a provisional application shall include a specification as prescribed by 35 U.S.C. 112, a drawing as prescribed by 35 U.S.C. 113, a claim as required by the second through fifth paragraphs of 35 U.S.C. 112 shall not be required in a provisional application, and the application must be accompanied by the fee required by law. It should also be noted 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.

Additionally, petitioner did not submit the petition fee of $400. Therefore, this fee should be submitted with the filing of any renewed petition.

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

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.53.

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

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Eckhard U. Alt
Application No. 61/172,263
Filed: April 24, 2009
Attorney Docket No. **856-0008PUS**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 24, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C.**
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Andrew M. Altman, et al.
Application No. 61/172,488
Filed: April 24, 2009
Attorney Docket No. **856-0007PUS**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 24, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C.**
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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 Palella
Suite 705
3830 Valley Centre Drive
PMB581
San Diego CA 92130-3307

COPY MAILED

AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of
Palella
Application No. 61/172,646
Filed: April 24, 2009
Attorney Docket No. N/A
For: MICRO-CREDIT MICRO-PROFIT SHARING METHOD AND SYSTEM FOR CLAIMING AND MONETIZING PERSONAL EMISSIONS REDUCTIONS

ON PETITION

This is a decision on the correspondence entitled, "**PETITION TO ACCORD FILING DATE UNDER 37 C.F.R. 1.53(e) in RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION**," filed July 2, 2009, to accord a filing date of April 24, 2009 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 April 24, 2009. However, on May 6, 2009, 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 April 24, 2009 specification refers to a Figure 1.

Petitioner requests that the application be accorded an April 24, 2009 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 May 6, 2009 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of April 24, 2009 without drawing figures. The petition is **granted**.

The $400.00 petition fee will be credited to petitioner's credit card.

A courtesy copy of this decision will be mailed to the address listed on the Provisional Application for Patent Cover Sheet. The inventor should specify the correspondence address of record, as he was the original filer of the application and Attorney Baumgartner is not a specifically empowered attorney of record.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **April 24, 2009** and the mailing of a filing receipt reflecting the April 24, 2009 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

CC: BAUMGARTNER PATENT LAW
5933 NE WIN SIVERS DRIVE
SUITE 250
PORTLAND, OR 97220

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Foley & Lardner, LLP
975 Page Mill Road
Palo Alto, CA 94304

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Lu Wang et al. :
Application No. 61/172,688 : DECISION ON PETITION
Filed: April 24, 2009 : TO WITHDRAW
Attorney Docket No. 092890-0800 : 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: Lu Wang
5980 Horton Street, Suite 550
Emeryville, CA 94608

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of
David J. Gerber et al.
Application No. 61/172,690
Filed: April 24, 2009
Attorney Docket No. 2005781-0008

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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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/172,690	04/24/2009	David J. Gerber	2005781-0008

CONFIRMATION NO. 2337

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

OC000000036800248

Date Mailed: 07/07/2009

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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DIRECTOR OF IP
5521 HELLYER AVENUE
SAN JOSE CA 95138

COPY MAILED

JAN 12 2010

In re Application of	:	
Garvan et al.	:	
Application Number: 61/173570	:	DECISION ON PETITION
Filed: 04/28/2009	:	
Attorney Docket Number: NSL-0189 P	:	

This is a decision on the petition filed on October 26, 2009, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of April 28, 2009.

The petition is **granted**.

The instant provisional application papers as filed consisted of 24 pages of written description, including 1 title page, and 19 pages containing text and drawings on the same pages, as well as 1 page containing claims and 1 page of abstract. On May 18, 2009, however, the Office of Patent Application Processing sent a Notice stating that the application had been deposited without drawings and that the filing date would be the date of receipt of the missing drawings. An additional Notice was mailed on August 26, 2009.

In reply, the present petition was filed on October 26, 2009. Petitioner asserts that the Figures contained in the 19 pages coded as "APPENDIX" in the Image File Wrapper constitute the drawings.

Pursuant to 35 USC 111(b)(1)(A);(B), in order to obtain a filing date, a application must provide the specification required by 35 USC 112 ¶ 1, and a drawing as prescribed by 35 USC 113. All conditions for obtaining a filing date in this nonprovisional application were clearly met on April 28, 2009.

Under the facts of this case, this provisional application is entitled, for a filing date, to the date of receipt of the specification, including 19 pages of written description that also contained drawing figures. 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.

The Notice of May 18, 2009, was mailed in error and is vacated.

No petition fee is due. The petition fee has been credited to counsel's credit card.

This provisional application is being referred to the Office of Patent Application Processing (OPAP) for further processing with a filing date of April 28, 2009.

Telephone inquiries should be directed to the undersigned at 571-272-3231. Inquiries related to OPAP processing should be directed to OPAP at 571-272-4000.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/173,944	04/29/2009	Les Okrasa	

CONFIRMATION NO. 7585

Cosmic Descent, LLC.
Box 249
Enfield, CT 06082

Date Mailed: 05/06/2010

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 **04/03/2010,** 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

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAY 27 2010

OFFICE OF PETITIONS

In re Application of :
Vahik KRIKORIAN :
Application No. 61/175,424 : DECISION ON PETITION
Filed: May 4, 2009 : TO WITHDRAW
Attorney Docket No. PFUEL.010PR : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed April 7, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Rose M. Thiessen does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

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

cc: ROSEN M. THIESSEN
550 WEST C STREET
SAN DIEGO CA 92101

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MAY 10 2010

OFFICE OF PETITIONS

HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 CONGRESS AVENUE, SUITE 919
AUSTIN TX 78701

In re Application of :
Viren RANA et al. :
Application No. 61/175,698 : DECISION ON PETITION
Filed: May 05, 2009 :
Attorney Docket No. SOLT030USP :

This is a decision on the petitions, filed February 17, 2010, under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment and under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application in the above-identified application.

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

The petition is under 37 CFR 1.8(b) is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 21, 2009, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before July 21, 2009.

Petitioner states that a timely reply was filed on October 21, 2009 via the EFS. Petitioner has submitted as evidence a copy of the Electronic Acknowledgment Receipt dated October 21, 2009.

A review of the Office records indicates that the reply was in fact timely filed with a two (2) month extension of times along with an authorization to charge any additional fees required, which would have rendered the reply timely.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 21, 2009 is hereby withdrawn and the application restored to pending status.

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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DR. EYAL BRESSLER LTD.
11 TUVAL ST.
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SEP 18 2009

OFFICE OF PETITIONS

In re Application of :
Yftach Navon :
Application No. 61/176,950 :
Filed: May 11, 2009 :
Attorney Docket No: 611-N-01-US :

DECISION DISMISSING PETITION FOR FILING DATE

This is a decision on the communication filed July 6, 2009 which is being treated as a petition under 37 CFR 1.53(e), requesting that this application be accorded a filing date of May 11, 2009.

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

The application was deposited on May 11, 2009. However, on May 21, 2009, 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 understanding of the subject matter sought to be patented."

However, the above petition submitted on July 6, 2009, is not signed by a proper party. 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.

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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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/176,995	05/11/2009	Les Okrasa	

CONFIRMATION NO. 9821

Cosmic Descent, LLC.
Box 249
Enfield, CT 06082

Date Mailed: 06/28/2010

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 **06/02/2010,** 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

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Corporate Intellectual Properties
Woermannkehre 1
Berlin 12359 DE GERMANY

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Moulder et al.	:	
Application No. 61/177671	:	DECISION
Filing or 371(c) Date: 05/13/2009	:	ON PETITION
Attorney Docket Number: 09.051P-US	:	

This is a decision on the "Petition to Expedite Petition to Revive," filed May 7, 2010.

This Petition is hereby **granted**.

A Decision on the Petition to revive the application under 37 CFR 1.137(b) is being mailed on even date herewith.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Moulder et al. :
Application No. 61/177671 : DECISION
Filing or 371(c) Date: 05/13/2009 : ON PETITION
Attorney Docket Number: 09.051P-US :

This is a decision on the "Petition to Revive Application Abandoned Unavoidably Under 37 C.F.R. § 1.137(a) or, in the Alternative, Unintentionally Under 37 CFR § 1.137(b)," filed April 6, 2010.

The petition under 37 CFR 1.137(a) is hereby **dismissed**.

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

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 June 8, 2009. The Notice required the statutory basic filing fee and a surcharge for the late submission of the filing fee, and set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on August 9, 2009. A Notice of Abandonment was mailed February 26, 2010.

The present petition

Petitioner states that the delay in responding to the Notice was because petitioners believed that the filing fee had been paid, and the Notice had therefore been issued in error. Petitioners provide that upon filing the application the filing fee was also paid via credit card using a Credit Card Payment Form, and aver that a copy of the Credit Card Payment Form and a copy of a fax acknowledgment receipt are attached as Exhibits C and D to the present petition. (No copy of Exhibits C and D are among the petitions papers). Petitioners provide further that upon receipt of the Notice, and believing that the filing fee had been paid, believed that the Notice had been issued in error and that no response to the Notice was required.

A Grantable Petition Under 37 CFR 1.137(a)

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), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**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(c).

Applicant lacks item (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**3**), Applicant must provide 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. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

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

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or

---

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

[2] 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 nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). 35 U.S.C. 133 and 151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. Id. at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 CFR 1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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).

Analysis

Petitioners state that the delay in responding to the Notice was because petitioners believed that the filing fee had been paid, and the Notice had therefore been issued in error. Petitioners provide that upon filing the application the filing fee was also paid via credit card using a Credit Card Payment Form, and aver that a copy of the Credit Card Payment Form and a copy of a fax acknowledgment receipt are attached as Exhibits C and D to the present petition. (No copy of Exhibits C and D are among the petitions papers). Petitioners provide further that upon receipt of the Notice, and believing that the filing fee had been paid, believed that the Notice had been issued in error and that no response to the Notice was required.

Office records

A review of the Electronic Acknowledgment Receipt in the application file on May 13, 2009, a copy of which has been filed with the present petition, reveal that the Electronic Acknowledgment Receipt indicates that no payment was submitted with the application papers

on May 13, 2009. Office finance records also confirm that no payment was received in this Office on May 13, 2009.

The evidence has been considered; however, Petitioner has failed to demonstrate that the application was abandoned unavoidably. The standard requires Petitioner to demonstrate that he acted as a prudent and careful person in relation to is most important business. Petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Here, petitioner asserts the delay was unavoidable because the Notice was overlooked. In this regard, a prudent and careful person in relation to his most important business, would have carefully perused all documents received from this Office to ensure timely and proper compliance with any outstanding requirements. Moreover, upon receipt of the Notice, a prudent and careful person in relation to his most important business, would have at a minimum filed a response to the Notice asserting that payment of the application filing fee had been submitted. Here, petitioners, upon believing that the Office erred in sending the Notice, ignored the Notice. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. While the delay may be said to have been unintentional, it is not found to have been unavoidable.

Conclusion

The petition to revive the application based upon unavoidable delay is dismissed.

Petition under 37 CFR 1.137(b)

Applicant files the present petition, and a 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 for processing of the reply to the Notice filed with the petition in due course.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
61/178,270	05/14/2009	Robert WEERSINK	15758300	4951

EXAMINER

7590 06/16/2009

OGILVY RENAULT LLP
1, Place Ville Marie
SUITE 2500
MONTREAL, QC H3B 1R1
CANADA

ART UNIT	PAPER NUMBER

MAIL DATE	DELIVERY MODE
06/16/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☒ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

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

CLAY JUDICE
201 BILLEAUD LN
LAFAYETTE LA 70506

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Judice
Application No. 61/178,940
Filed: May 16, 2009
Attorney Docket No. N/A
For: STANDARD PUTTER TO BELLY (MID) PUTTER OR LONG PUTTER CONVERSION DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2010, 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 June 17, 2009, 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 August 18, 2009. A Notice of Abandonment was mailed on March 2, 2010.

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 (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $810.00. A review of Office records indicates that petitioner has not paid this fee.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

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

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)

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

Nie Luo
605 Buttercup Dr.
Savoy IL 61874

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of :
Luo, Cui and Kim :
Application No. 61/178,967 :
Filed: 05/16/2009 :
Title: ELECTROLYTIC SYNTHESIS OF HYDROGEN PEROXIDE DIRECTLY FROM WATER AND APPLICATIONS THEREOF :

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed March 4, 2010, to revive the above-identified application.

On June 10, 2009, the Office mailed a Notice to File Missing Parts of Provisional Application, which set a period of two months to reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Therefore, in the absence of a timely reply, the application became abandoned on August 11, 2009. A Notice of Abandonment was mailed on February 25, 2010.

On March 4, 2010, petitioner filed the present petition accompanied by a reply to the Notice to File Missing Parts and a $120.00 petition fee. The Office notes that the current fee for filing a petition under 37 CFR 1.137(b) is $1,620.00 for a large entity or $810.00 for a small entity. As petitioner only submitted a $120.00 petition fee, the petition fee is insufficient. The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) **will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.**

MPEP 711.03(c)(III)(B) (emphasis added).

Moreover, the Office notes that the application identifies Luo, Cui and Kim as joint inventors. However, only inventor Luo signed the present petition.

37 CFR 1.33(b) states in pertinent part:

> 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 registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The Office records do not indicate that applicants, Luo, Cui and Kim, filed a power of attorney in the present application or assigned their interests. Therefore, all of the applicants must sign a petition in a joint application where the applicants have not given power of attorney to a registered attorney or agent. In the present case, only Luo signed the petition. There is no indication that Cui and Kim gave power of attorney to Luo to prosecute the application on behalf of them.

In view of the above, the petition cannot be accepted because it lacks the full amount of the required petition fee and was not properly signed by a person having authority to prosecute the application without the signature of the other applicants, Cui and Kim. Consequently, the present petition will not be addressed on the merits. The petition is **dismissed**.

Petitioner must file a "renewed" petition under 37 CFR 1.137(b) signed by joint inventors Luo, Cui and Kim, accompanied by the balance due for the payment of the petition fee. Petitioner may request that the Office apply the $120.00 fee paid on March 4, 2010, to complete the required 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 FAX: (571) 273-8300
Attn: Office of Petitions

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

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries related 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

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.
61/179,030	05/18/2009	Kamal Mehta	NDS-018-ESZO-US	7829

7590 06/11/2009

GLENMARK PHARMACEUTICALS INC USA
750 CORPORATE DRIVE
MAHWAH, NJ 07430

EXAMINER	
ART UNIT	PAPER NUMBER
MAIL DATE	DELIVERY MODE
06/11/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLENMARK GENERICS INC.
750 CORPORATE DRIVE
MAHWAH NJ 07430

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Application of :
Mehta, et al. :
Application No. 61/179,033 : DECISION
Filed: 18 May, 2009 :
Attorney Docket No: **NDS-018-ESZO-US** :

This is a decision on the petition filed on 11 February, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

In his petition, Petitioner refers to telephone conversations, however, the record is silent as to any contemporaneous documentation of such matters and Petitioner—as one registered to practice before the Office—is aware that:

- that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP);

- therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

Petitioner also references a change of address, however, it is noted that Petitioner failed to include on his petition that new address.

[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.

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.

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the Notice to File Missing Parts (provisional coversheet, surcharge) mailed on 28 May, 2009, with reply due absent extension of time on or before 28 July, 2009.

The application went abandoned by operation of law after midnight 28 July, 2009

The Office mailed the Notice of Abandonment on 5 February, 2010.

On 11 February, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of coversheet and surcharge and made a statement of unintentional delay. (Petitioner also appears to have submitted fees for extension of time—which Petitioner, as one registered to practice before the Office, knows is not proper after the expiration of the statutory period—and for an additional petition fee. These fees are refunded to Deposit Account 50-

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

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

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

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

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

As to Allegations of
Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

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

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

---

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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DIW Feb-10

MARJAMA MULDOON BLASIAK & SULLIVAN LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE NY 13202

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Application of :
Netravali et al. :
Application Number: 61/179279 : DECISION ON PETITION
Filed: May 18, 2009 :
Attorney Docket Number: :
1258_4790PRO :

This is a decision on the petition filed on July 7, 2009, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of May 18, 2009.

The petition is **granted.**

The instant provisional application papers as filed consisted of, *inter alia*, five (5) pages of written description and 42 pages containing text and drawings on the same pages. On June 12, 2009, however, the Office of Patent Application Processing sent a Notice stating that the application had been deposited without drawings and that the filing date would be the date of receipt of the missing drawings.

In reply, the present petition was filed on July 7, 2009. Petitioners assert that the Figures contained in the 42 pages coded as "APPENDIX" in the Image File Wrapper constitute the drawings.

Pursuant to 35 USC 111(b)(1)(A);(B), in order to obtain a filing date, a application must provide the specification required by 35 USC 112 ¶ 1, and a drawing as prescribed by 35 USC 113. All conditions for obtaining a filing date in this provisional application were clearly met on May 18, 2009.

Under the facts of this case, this provisional application is entitled, for a filing date, to the date of receipt of the specification, including 42 pages of written description that also contained drawing figures. 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.

The Notice of May 18, 2009, was mailed in error and is vacated.

No petition fee is due. The petition fee will be credited to counsel's deposit account.

This provisional application is being referred to the Office of Patent Application Processing (OPAP) for further processing with a filing date of May 18, 2009.

Telephone inquiries should be directed to the undersigned at 571-272-3231. Inquiries related to OPAP processing should be directed to OPAP at 571-272-4000.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Trevor Q. Coddington, Esq.
San Diego IP Law Group LLP
12526 High Bluff Drive
Suite 300
San Diego CA 92130

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Margon, et al. :
Application No. 61/179,605 : ON PETITION
Filed: May 19, 2009 :
Attorney Docket No. FALL DETECTION :
AND HEART/LUNG MONITORING :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The application became abandoned August 16, 2009 for failure to timely submit a proper reply to the Notice of File Missing Parts of Provisional Application (Notice) mailed June 15, 2009. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed March 2, 2010.

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 has been carefully reviewed and found in compliance with the requirements set forth above.

Petitioners are reminded that a provisional application may be abandoned prior to 12 months from its filing date for failure to reply to an Office requirement (e.g., failure to submit the filing fee and/or cover sheet). Applicant may petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than 12 months from the filing date of the provisional application where the delay was unavoidable or unintentional. It would be permissible to file a petition for revival later than 12 months from the filing date of the provisional application but only to revive the application for the 12-month period following the

filing of the provisional application. Thus, even if the petition were granted to establish the pendency up to the end of the 12-month period, the provisional application would not be considered pending after 12 months from its filing date

In view thereof, the petition to revive is hereby GRANTED.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See, In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175.00 extension of time fee submitted with the petition on March 22, 2010 was subsequent to the maximum extendable period for reply, petitioners 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.

This application is being directed 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Mar-10

DIRECTOR OF IP
5521 HELLYER AVENUE
SAN JOSE, CA 95138

MAILED

MAR 0 4 2010

OFFICE OF PETITIONS

In re Application of :
James R. Sheats, et al. :
Application No.: 61/180,814 : ON PETITION
Filed: May 22, 2009 :
Atty Docket Number: NSL-0194 P :

This is a decision on the petition filed December 7, 2009, requesting that the above-identified provisional application, without drawings, be accorded a filing date of May 22, 2009.

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. Hao Y. Tung 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 filed in response to an October 8, 2009 Notice of Incomplete Provisional Application, stating that the application had not been accorded a filing date because the application had been deposited without drawings. Petitioner requests that the application be accorded a filing date and the petition fee refunded, since the present provisional application does not require drawings.

The petition is **GRANTED**.

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 statement by petitioner in the petition is accepted 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 October 8, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of May 22, 2009, without drawings as a part of the original disclosure.

Since the petition was necessitated by an error on the part of the USPTO, no petition fee is necessary. The $400 petition fee is being 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 22, 2009.

Telephone inquiries specific to this matter 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
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DIRECTOR OF IP
5521 HELLYER AVENUE
SAN JOSE CA 95138

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Matthew RAIL	:	
Application No. 61/180,815	:	DECISION ON PETITION
Filed: May 22, 2009	:	
Attorney Docket No. NSL-0195_P	:	

This is a decision on the petition under 37 CFR 1.53(e), filed November 30, 2009, to accord a filing date.

Petitioner asserts that no drawings are necessary for the filing of the subject provisional application under 35 USC 113 (first sentence), pursuant to MPEP 608.2 (III). A review of the Office records indicates that drawings are not needed.

A review of the Office records indicates that drawings are in fact **not necessary** for the filing of the subject application and that the requirements under 35 USC 113 (first sentence) pursuant to MPEP 608.2 (III) has been met.

Accordingly, this application is entitled to a filing date of May 22, 2009, and has been so accorded.

In view of the above, the petition is **GRANTED**. The petition fee of $400.00 will be credited to petitioner's deposit account.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

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.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIRECTOR OF IP
5521 HELLYER AVENUE
SAN JOSE CA 95138

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
James R. SHEATS :
Application No. 61/180,817 : DECISION ON PETITION
Filed: May 22, 2009 :
Attorney Docket No. NSL-0196_P :

This is a decision on the petition under 37 CFR 1.53(e), filed November 30, 2009, to accord a filing date.

Petitioner asserts that no drawings are necessary for the filing of the subject provisional application under 35 USC 113 (first sentence), pursuant to MPEP 608.2 (III). A review of the Office records indicates that drawings are not needed.

A review of the Office records indicates that drawings are in fact **not necessary** for the filing of the subject application and that the requirements under 35 USC 113 (first sentence) pursuant to MPEP 608.2 (III) has been met.

Accordingly, this application is entitled to a filing date of May 22, 2009, and has been so accorded.

In view of the above, the petition is **GRANTED**. The petition fee of $400.00 will be credited to petitioner's deposit account.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

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.

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

Dr. Eyal Bressler
11 Tuval St.
Ramat-Gan 52522 IL ISRAEL

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of :
Shmuel Bukshpan et al. :
Application No. 61/180,897 : DECISION ON PETITION
Filed: May 25, 2009 :
Attorney Docket No. **604-H-02-US** :

This is a decision on the petitions filed April 1, 2010, requesting (a) a withdrawal of holding of abandonment under 37 CFR 1.181 in the above-identified application, that is being treated under 37 CFR 1.8(b), and (b) an expedited consideration thereof under 37 CFR 1.182.

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

The petition under 37 CFR 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).

This application was held abandoned for failure to reply to the Notice to File Missing Parts of Provisonal Application (Notice), mailed June 3, 2009, which set a period of two (2) months for reply. A Notice of Abandonment was mailed on February 17, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply was submitted by facsimile on July 8, 2009. 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 instant petition lacks item (2) in that a copy of "PTO-2038 form indicating payment of $25" has not been submitted. Therefore, the requested relief of withdrawing the holding of abandonment cannot be granted. Petitioner should also note that the instant application remains abandoned as the $25 surcharge fee required by the Notice has not been filed to this date.

Additionally, the instant petition is not acceptable and will not be granted at this time as it not properly signed. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

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

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Jessica Bressler) was ever given a power of attorney to act on behalf of inventors Shmuel Bukshpan and Gleb Zilberstein, or that the petitioner is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition lacks a proper signature.

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 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 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 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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 15 2010

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Guanghua G. DENG	:	
Application No. 61/181,000	:	DECISION ON PETITION
Filed: May 26, 2009	:	
Attorney Docket No. **071485P1**	:	

This is a decision on the petition under 37 CFR 1.53(e), filed August 24, 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 not needed.

Accordingly, this application is entitled to a filing date of May 26, 2009, 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 for **correction of the filing date to May 26, 2009 and for issuance of a corrected filing receipt**.

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

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

VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

MAILED

JUL 22 2009

OFFICE OF PETITIONS

In re Application of	:	
David M. Berghorn et al	:	
Application No. 61/181,138	:	DECISION ON PETITION
Filed: May 26, 2009	:	
Attorney Docket No. RAP04 P-695	:	

This is a decision on the request filed July 10, 2009, 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 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), and (6) above.

Petitioner is encouraged to file the petition under 37 CFR 1.181 in the application that is an unintended duplicate filing and not the application that petitioner wishes to retain.

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 delivered through one of the following mediums:

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

(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

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

/KOC/
Karen Creasy.
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 15 2010

OFFICE OF PETITIONS

Nie Luo
605 Buttercup Dr.
Savoy IL 61874

In re Application of
Luo
Application No. 61/181,286
Filed: May 27, 2009
For: INDUCTION HEATING FOR CONTROL OF HYDROGEN STORAGE AND APPLICATIONS THEREOF

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

Any request for reconsideration of this decision 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(b)." This is not a final agency decision.

Submission of the petition fee is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b). The USPTO cannot acknowledge receipt of the required petition fee, currently $810.00 for a small entity

Accordingly, the petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration must be accompanied by the required 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 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

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Fred Burbank et al.	:	
Application No. 61/182,981	:	DECISION ON PETITION
Filed: June 1, 2009	:	TO WITHDRAW
Attorney Docket No. **0874094-1550**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 14, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Antionette F. Konski or any attorneys associated with Customer Number 38706 does not have power of attorney or was ever given power of attorney in this patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

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

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
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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON MA 02205

In re Application of :
Sujit Kumar Basu :
Application No. 61/183,815 : DECISION ON PETITION
Filed: June 3, 2009 :
Attorney Docket No. 84175P(301937) :

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION, filed July 23, 2009, which is being treated as a request that the "Notice of Omitted Items" mailed June 25, 2009 be withdrawn.

The petition is **DISMISSED**.

The application was filed on June 3, 2009. However, on June 25, 2009, 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 Figure 1H as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that due to a clerical error, the specification incorrectly referred to Figure 1 (A-H), when it should have instead referred to Figures 1 (A-G).

It is obvious from the petition that no drawings were actually missing on June 3, 2009. Rather, it appeared that a Figure 1H should have been present as a result of applicant's filing error.

However, the "Notice of Omitted Item(s) in a Provisional Application" mailed June 25, 2009 was correct in stating that Figure 1H as 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
P.O. Box 1450
Alexandria, VA 22313-1450
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PEQUIGNOT + MYERS LLC
140 MARINE VIEW AVENUE
SUITE 220
SOLANA BEACH CA 92075

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DEC 0 7 2009

OFFICE OF PETITIONS

In re Application of
Jones et al
Application No. 61/184,207
Filed: June 4, 2009
Attorney Docket No. 36-238 US PROV

DECISION ON PETITION

This is a decision on the request filed September 15, 2009, 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 $220.00, submitted on June 4, 2009, has been credited to petitioner's deposit account no. 50-1465.

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

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.
61/184,811	06/07/2009	Jaime T. Zeas	0007422.0003	2217

7590 08/06/2009

MILTON S. GERSTEIN
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606-1615

EXAMINER	
ART UNIT	PAPER NUMBER
MAIL DATE	DELIVERY MODE
08/06/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☒ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Tom Farmer

Patent Publication Branch
Office of Data Management

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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DOMINIQUE BEHRENS
646 BROADOAK LOOP
LAKE FOREST FL 32771

MAILED

MAY 12 2010

OFFICE OF PETITIONS

Application No. 61/184817 :
Filed: N/A :
Title: Unknown : ON PETITION
:
:

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

On April 8, 2010, the USPTO mailed petitioner a Notice of Termination of Proceedings under 37 CFR 1.53(e), stating that the proceedings on the above-identified application had been terminated. The Notice indicated that the application did not meet the requirements of 37 CFR 1.53(b), (c) or (d) to be entitled to a filing date, and that the filing errors specified in the Notice of Incomplete Provisional Application (Notice) mailed on January 4, 2010, were not timely corrected. The Office required a $130.00 handling fee.

In response, petitioner filed the present petition to revive the application and paid an $810.00 fee. The Office notes that the proceedings have been terminated because the application is not entitled to a filing date; therefore, the application cannot become abandoned. Accordingly, the filing of a petition under 37 CFR 1.137(b) is inappropriate under the circumstances of this case. For this reason, the petition is dismissed.

The $810.00 fee will be refunded to petitioner's credit card in due course.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

DOMINIQUE BEHRENS
646 BROADOAK LOOP
LAKE FOREST FL 32771

MAILED

JUN 0 4 2010

OFFICE OF PETITIONS

Application No. 61/184,817
Date Deposited: June 7, 2009
Title: UNKNOWN

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 18, 2010, May 24, 2010 and May 25, 2010, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on January 4, 2010, a Notice of Incomplete Provisional Application was mailed, stating that the application had not been accorded a filing date because the application had been deposited without a Specification, Provisional Cover Letter and Basic Filing fee. A Notice of Termination of Proceedings Under 37 CFR 1.53(e) was mailed on April 8, 2010 stating that the application did not meet the requirements of 37 CFR 1.53(b), (c), or (d) to be entitled to a filing date, and the filing error(s) specified in the Notice mailed on January 4, 2010 were not timely corrected (37 CFR 1.53(e)). Accordingly, the proceedings on the above-identified application are terminated. Further, since no filing date was accorded, the application did not become abandoned. As such, the petition is dismissed as moot.

The $810.00 petition fee has been previously refunded to petitioner's credit card.

However, the Specification, Provisional Cover Letter and Basic Filing fee were received on April 28, 2010. Accordingly this application is being forwarded to the Office of Patent Application Processing for further processing.

Additionally, petitioner contends that "Unfortunately many of our mailings are not received, with numerous prior complaints." However, the Notice was mailed to the correct correspondence address of record. A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petition Examiner
Office of Petitions

cc: Dominique A Behrens PA
1801 N Flagler Drive PH924
West Palm Beach, FL 33407

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

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Barry L. Creighton et al.	:	
Application No. 61/185,129	:	DECISION ON PETITION
Filed: June 8, 2009	:	TO WITHDRAW
Attorney Docket No. 34877.16	:	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 4, 2010.

The request is **NOT APPROVED.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71. If an assignee has ownership in this application, then a Statement under 37 CFR 3.73(b) must be provided with a renewed request.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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
Steven SAX
Application No. 61/185,274
Filed: June 9, 2009
Attorney Docket No. **069756.010300**

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 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 Ehab Samuel, the sole attorney of record. Ehab Samuel has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

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

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

cc: **STEVEN SAX**
23136 HARLAND STREET
WEST HILLS, CA 91307

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FOLEY LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Guillet et al. :
Application No. 61/185,692 : ON PETITION
Filed: June 10, 2009 :
Attorney Docket No. 065691-1651 :

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

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

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 30 2010

OFFICE OF PETITIONS

BRAKE HUGHES BELLERMANN LLP
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

In re Application of
John Kolen et al
Application No. 61/185,978
Filed: June 10, 2009
Attorney Docket No. 0058-069P01/GP2167-00-US

DECISION ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required Provisional 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 to File Missing Parts mailed June 25, 2009, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350 extension of time fee submitted with the petition on was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account, as it is the method in which the fee was paid.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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JUL 06 2010

OFFICE OF PETITIONS

In re Application of
Winston I. Way
Application No. 61/186,325
Filed: June 11, 2009
Attorney Docket No. 0077496-000001

DECISION ON PETITION

This is a decision on the petition, filed May 10, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice to File Missing Parts of a Provisional Application (Notice) mailed June 23, 2009, which set a two (2) month period for reply. A Notice of Abandonment was mailed on March 9, 2010.

Petitioner asserts that the Notice dated June 23, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner's statement.

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

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

Accordingly, absent the required evidence to establish nonreceipt of the Notice of June 23, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee.

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

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

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

By 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No.

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SEP 14 2009

OFFICE OF PETITIONS

NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS CA 94070

In re Application of :
Riggs-Sauthier :
Application No. 61/186,768 :
Filed: June 12, 2009 :
Attorney Docket No. SHE0252.PRO :
Title: NOVEL PROTEASE INHIBITORS :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.182

This is a decision on the "REPLY TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION AND PETITION TO MAINTAIN THE ASSIGNED FILING DATE," filed on August 5, 2009, requesting that the above-referenced application be accorded a filing date of June 12, 2009. 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 June 12, 2009. However, on July 1, 2009, the Office of Data Management mailed Applicant 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 drawings.[1]

MPEP § 601.01(f) provides that:

> "If a nonprovisional application does not have at least one claim directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, or a provisional application does not have at least some disclosure directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, and is filed without drawings, OPAP will mail a "Notice of Incomplete Application" indicating that the application lacks drawings and that 35 U.S.C. 113 (first sentence)

[1] The electronic file has been reviewed, and there is no indication that drawings were provided on filing.

> requires a drawing where necessary for the understanding of the subject matter sought to be patented.
>
> Applicant may file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f), asserting that (A) the drawing(s) at issue was submitted, or (B) the drawing(s) is not necessary under 35 U.S.C. 113 (first sentence) for a filing date. The petition must be accompanied by sufficient evidence to establish applicant's entitlement to the requested filing date (e.g., a date-stamped postcard receipt (MPEP § 503) to establish prior receipt in the USPTO of the drawing(s) at issue). Alternatively, applicant may submit drawing(s) accompanied by an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the drawing(s) being submitted and accept the date of such submission as the application filing date."

As such, Petitioner timely filed this petition along with the required fee, where it is asserted that drawings:

> "were not intended as part of the provisional application and that the drawings are not necessary for the completeness of the provisional application filed on 12 June 2009."[2]

Applicant's arguments and evidence have been considered. It is noted that the invention is directed towards a method of using a composition and to the composition itself. It is concluded that drawings are not necessary for understanding the invention.

To the extent the present petition requests a filing date of June 12, 2009 with no drawings present in the application, the petition is **GRANTED**.

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, for:

- **according a filing date of June 12, 2009;**
- **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and;**
- **issuance of a filing receipt.**

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

---

[2] Petition, page 1.

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
Senior Attorney
Office of Petitions

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

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RedBite Solutions Ltd
St Johns Innovation Centre, Cowley Road
Cambridge CB4 0WS GB UNITED KINGDOM

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Chien Yaw Wong, et al. :
Application No. 61/187,990 : DECISION ON PETITION
Filed: June 17, 2009 :
Attorney Docket No. MC1-019607 US PRO :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application, mailed July 1, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 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 the Provisional Application Cover Sheet with proper information, (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 Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Patent Application Processing for appropriate action on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Christopher P. Harris**
TAROLI, SUNDHEIM, COVELL &
TUMMINO LLP
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

PANDISCIO & PANDISCIO, P.C.
470 TOTTEN POND ROAD
WALTHAM MA 02451-1914

In re Application of
Patrick O'Donnell et al.
Application No. 61/188,105
Filed: August 6, 2008
Attorney Docket No. **MEDCAP-3 PROV**

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed October 29, 2008 which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 6, 2008.

The application was filed on August 6, 2008 without drawings.[1] Accordingly, on August 25, 2008, the Office of Data Management mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented Petitioners request that the application, without drawings, be accorded a filing date of August 6, 2008.

It has been PTO practice 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).[2] Since the application was filed with at least one claim directed to a process or method or composition claim, 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).

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

In view of the above, the Notice mailed August 25, 2008, is hereby withdrawn. The application is accorded a filing date of August 6, 2008 without drawings.

The petition is **GRANTED**. In view thereof, no petition fee is due. The $400.00 petition fee will be refunded to petitioner's deposit account no. 16-0221.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of August 6, 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

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

FREDRICK NERCY MICHAEL
APT. BSMT.
8445 W. WINDSOR AVE.
CHICAGO IL 60656

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Fredrick N. MICHAEL	:	
Application No. 61/189,290	:	DECISION ON PETITION
Filed: August 18, 2008	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 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 November 06, 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 (2).

The petitioner failed to submit the required petition fee of $810.00. A review of the Office records indicates that a petition fee of $130.00 was received, however there is a fee deficiency of $680.00 due. 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 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) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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In re Application of	:	
Sampson et al.	:	
Application No. 61/189684	:	
Filing or 371(c) Date: 08/20/2008	:	
Attorney Docket Number:	:	DECISION
14421/47101	:	ON PETITION

This is a decision on the "Petition For Filing Date in Response to Notice of Incomplete Provisional Application", filed November 7, 2008, requesting the above-identified application be accorded a filing date of August 20, 2008.

The petition is granted.

The application was filed on August 20, 2008. On September 24, 2008, the Office of Initial Patent Examination 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 four (4) sheets of drawings were filed in the application on August 20, 2008. In support of this assertion, Applicant files a copy of his return-receipt postcard acknowledging receipt of, *inter alia*, four (4) drawings by this Office on August 20, 2008.

A review of the file reveals that 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 September 24, 2008, was mailed in error and is hereby withdrawn.

Applicant has also submitted evidence that the application as-deposited on August 20, 2008, included four (4) drawings.

This application is being forwarded to the Office of Patent Application Processing, Customer Corrections, for further processing,

- with the filing date of August 20, 2008,

- and an indication that no drawings were required and that four (4) sheets of drawings were present on filing, using the four (4) sheets of drawings filed with the present petition on November 7, 2008.

A refund of the petition fee has been credited to Applicant's deposit account as authorized in the petition.

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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/833,331	08/03/2007	Joseph Catanese III	83455.0004.D3

CONFIRMATION NO. 7704

CONVERSION REQUEST

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

OC000000031774349

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 **61/190,029.** 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, VA 22313-1450
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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.: 11/833,331
Filed: Aug. 3, 2007
Docket: 83455.0004.D3
Title: APPARATUS AND METHOD FOR MANIPULATING 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 11833331 on 08/26/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/833,340	08/03/2007	Joseph Catanese III	83455.0004.D4

CONFIRMATION NO. 7715

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC000000031774587

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 **61/190,030.** 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)
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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.: 11/833,340
Filed: Aug. 3, 2007
Docket: 83455.0004.D4
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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/833,371	08/03/2007	Joseph Catanese III	83455.0004.D7

CONFIRMATION NO. 7769

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC00000031774770

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 **61/190,031.** 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.: 11/833,371
Filed: Aug. 3, 2007
Docket: 83455.0004.D7
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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/833,359	08/03/2007	Joseph Catanese III	83455.0004.D6

CONFIRMATION NO. 7751

CONVERSION REQUEST

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

OC00000031775077

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 **61/190,032.** 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.: 11/833,359
Filed: Aug. 3, 2007
Docket: 83455.0004.D6
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 11833359 on 08/26/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/835,352	08/07/2007	Robert Pinard	084122-0600

CONFIRMATION NO. 1293

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

CONVERSION REQUEST

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 **08/07/2008,** 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 **61/190,033.** 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)
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AUG 14 2008

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Pinard et al. : CONVERSION TO PROVISIONAL
Serial No.: 11/835,352 :
Filed: August 7, 2007 :
Attorney Docket No.: 084122-0600

This is in response to applicants' request, filed August 7, 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
Technology Center 1600

Copied from 11835352 on 08/27/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/852,219	09/07/2007	Arthur B. Raitano	511582001121

CONFIRMATION NO. 1766

36327
AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

CONVERSION REQUEST

OC000000031788295

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 **07/08/2008,** 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 **61/190,034.** 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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AUG 25 2008

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

In re Application of :
Raitano et al.. : CONVERSION TO PROVISIONAL
Serial No.: 11/852,219 :
Filed: September 7, 2007 :
Attorney Docket No.: **511582001121**

This is in response to applicants' request, filed July 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
Technology Center 1600

Copied from 11852219 on 08/27/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/894,727	08/20/2007	Kenneth H. Grabstein	110197.410C1

CONFIRMATION NO. 8842

500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

CONVERSION REQUEST

OC000000031791925

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 **08/20/2008,** 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 **61/190,035.** 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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AUG 22 2008

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Application of :
Grabstein et al. : CONVERSION TO PROVISIONAL
Serial No.: 11/894,727 :
Filed: August 20, 2007 :
Attorney Docket No.: 110197.410C1

This is in response to applicants' request, filed August 20, 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
Technology Center 1600

Copied from 11894727 on 08/27/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/875,774	10/19/2007	Eugene SERINA	578492003100

CONFIRMATION NO. 5011

CONVERSION REQUEST

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

OC000000031873797

Date Mailed: 09/03/2008

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 **06/26/2008,** 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 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 **61/190,036.** 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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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/985,045	11/13/2007	Jeffrey W. Schrieber	PUH.0012US (HON-022)

CONFIRMATION NO. 6243

CONVERSION REQUEST

21906
TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

OC000000031874152

Date Mailed: 09/03/2008

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 **08/11/2008,** 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 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 **61/190,037.** 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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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/859,652	09/21/2007	Jay Lacny	MKS-0701

CONFIRMATION NO. 5078

CONVERSION REQUEST

72525
TIMOTHY C. DENNISON
4883 ART STREET
SAN DIEGO, CA 92115

OC00000031874770

Date Mailed: 09/03/2008

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 **12/03/2007,** 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 **61/190,038.** 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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/201,548	08/29/2008	Xin LI	13799-3

CONFIRMATION NO. 9645

CONVERSION REQUEST

45473
BRINKS, HOFER, GILSON & LIONE
2801 SLATER ROAD, SUITE 120
MORRISVILLE, NC 27560

OC000000032215022

Date Mailed: 09/22/2008

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 **09/05/2008,** 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 **61/190,040.** 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
11/981,415	10/31/2007	Maria C. Bohannon	38-21(54975)A

CONFIRMATION NO. 1432

CONVERSION REQUEST

27161
MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

OC000000032632284

Date Mailed: 10/16/2008

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 **05/22/2008,** 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 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 **61/190,041.** 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
P.O. Box 1450
Alexandria, VA 22313-1450
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MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

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JUN 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Bohannon, et al.	:	DECISION REFUSING STATUS
Application No. 11/981,415	:	UNDER 37 CFR 1.47(a)
Filed: October 31, 2007	:	
Attorney Docket No. 38-21(54975)A	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 11, 2008 (certificate of mailing date February 8, 2008).

The petition is **DISMISSED**.

A petition under 37 CFR 1.47(a) was filed on February 11, 2008 (certificate of mailing date February 8, 2008). Subsequently, a petition to convert the present nonprovisional application to a provisional application was filed on May 22, 2008.

Rule 47 does not apply to provisional applications.

In light of the request to convert the present nonprovisional application to a provisional application, the Rule 47 petition is dismissed. No petition fee has been charged in connection with the Rule 47 petition. If the petition to convert is not granted, petitioners may renew their petition under 37 CFR 1.47(a) without prejudice.

After the mailing of this decision, the application will be returned to the Office of Patent Application Processing for consideration of the May 22, 2008 request to convert the present nonprovisional application to a provisional application.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Copied from 11981415 on 10/16/2008

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SEP 05 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

In re Application of	:
Coffin et al.	: CONVERSION TO PROVISIONAL
Serial No.: 11/981,415	:
Filed: October 31, 2007	:
Attorney Docket No.: **38-21(54975)A**	

This is in response to applicants' request, filed May 22, 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
Technology Center 1600

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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
12/111,167	04/28/2008	Kevin James Doyle	079999-1550

CONFIRMATION NO. 6819

38706
FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

CONVERSION REQUEST

OC000000032633734

Date Mailed: 10/16/2008

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 **09/17/2008,** 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 **61/190,043.** 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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SEP 19 2008

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of :
Doyle et al. : CONVERSION TO PROVISIONAL
Serial No.: 12/111,167 :
Filed: April 28, 2008 :
Attorney Docket No.: **079999-1550**

This is in response to applicants' request, filed September 17, 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
Technology Center 1600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/874,869	10/18/2007	Joaquim Trias	59385.8072.US02

CONFIRMATION NO. 3409

34055
PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

CONVERSION REQUEST

OC000000032835580

Date Mailed: 10/28/2008

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 **10/17/2008,** 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 **61/190,044.** 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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Alexandria, VA 22313-1450
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OCT 21 2008

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

In re Application of :
Trias et al. : CONVERSION TO PROVISIONAL
Serial No.: 11/874,869 :
Filed: October 18, 2007 :
Attorney Docket No.: **59385.8072.US02**

This is in response to applicants' request, filed October 17, 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
Technology Center 1600

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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
12/112,857	04/30/2008		P0032463.00

CONFIRMATION NO. 9948

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

OC000000032835703

Date Mailed: 10/28/2008

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 **09/22/2008,** 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 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 **61/190,045.** 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
12/112,853	04/30/2008		P0028645.00

CONFIRMATION NO. 9936

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

OC000000032836381

Date Mailed: 10/28/2008

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 **07/14/2008,** 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 **61/190,046.** 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
11/985,064	11/13/2007	Christopher J. Chuah	PUH.0013US (HON-023)

CONFIRMATION NO. 6140

21906
TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

CONVERSION REQUEST

OC000000032855003

Date Mailed: 10/29/2008

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 **08/11/2008,** 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 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 **61/190,047.** 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
11/942,230	11/19/2007	Paul W. White	V2005027

CONFIRMATION NO. 1225

35979
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

CONVERSION REQUEST

OC000000033149369

Date Mailed: 11/18/2008

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 **07/02/2008,** 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 **61/190,048.** 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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NOV 13 2008

Bracewell & Giuliani LLP
P.O. Box 61389
Houston, TX 77208-1389

In re application of :
Paul W. White :
Application No. 11/942,230 : DECISION ON PETITION
Filed: November 19, 2007 : TO CONVERT TO A
For: UTILITY SKID TREE SUPPORT : PROVISIONAL APPLICATION
FOR SUBSEA WELLHEAD :

This is a decision on the petition under 37 CFR 1.53(c)(2) filed July 2, 2008, 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.

Teri P. Luu
Quality Assurance Specialist
Patent Technology Center 3600
(571)272-7045

11/07/08

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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In re Application of :
Paul White :
Application No. 11/942,230 : ON PETITION
Filed: November 19, 2007 :
Attorney Docket No. V2005027 :
For: UTILITY SKID TREE SUPPORT :
SYSTEM FOR SUBSEA WELLHEAD :

This is a decision on the "PETITION TO CONVERT CIP TO PROVISIONAL IN ACCORDANCE TO 37 CFR 1.53(c)(2)" filed July 2, 2008.

The petition is **GRANTED**.

Applicant requests that the Office convert the present nonprovisional application filed under 37 CFR 1.53(b) to a provisional application. Applicant has paid the processing fee set forth in 37 CFR 1.17(q). Applicant asserts that the present nonprovisional application is not abandoned and that applicant has not paid the issue or filed a request for a statutory invention registration under 37 CFR 1.293 in the nonprovisional application. Furthermore, applicants filed the request prior to the expiration of 12 months after the filing date of the application filed under 37 CFR 1.53(b).

In view thereof, applicant has met the requirements under 37 CFR 1.53(c)(2) to convert the present nonprovisional application to a provisional application. The Office notes that the granting of the request does not entitle applicant to a refund of the fees properly paid in the application filed under 37 CFR 1.53(b). The Office further notes that the request to convert was not recognized in sufficient time to permit the appropriate officials to remove the nonprovisional application from the publication process. Accordingly, the nonprovisional application published on June 5, 2008. For information on procedures for removing an application from publication, see MPEP § 1120.

Lastly, the Office reminds applicant that a provisional application is not entitled to claim priority to or benefit of a prior-filed application under 35 U.S.C. 119, 120, 121, or 365. See MPEP

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§ 201.04(b). After the nonprovisional application has been converted to a provisional application, any priority or benefit claims submitted in the nonprovisional application will be disregarded.

The application is being forwarded to the Office of Patent Application Processing (OPAP) for processing as a **PROVISIONAL** application under 35 U.S.C. 111(b) and 37 CFR 1.53(c) with a filing date of November 19, 2007, and to assign a new provisional application number.

The new provisional application number will be communicated to applicant by OPAP in due course.

Telephone inquiries specific to this matter 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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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
12/218,552	07/16/2008	Aaron Burke	MCA-1025

CONFIRMATION NO. 3542

CONVERSION REQUEST

42754
Nields & Lemack
176 E. Main Street
Suite #5
Westboro, MA 01581

OC000000033159341

Date Mailed: 11/18/2008

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 **09/15/2008,** 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 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 **61/190,049.** 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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/188,136	08/07/2008	Farinaz Koushanfar	11321-P176US

CONFIRMATION NO. 4405

61060
WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

CONVERSION REQUEST

OC000000033285788

Date Mailed: 11/24/2008

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 **11/18/2008,** 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 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 **61/190,050.** 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
12/177,130	07/21/2008	Samuel GRAHAM	GTRC3921/4279

CONFIRMATION NO. 3849

CONVERSION REQUEST

6980
TROUTMAN SANDERS LLP
600 PEACHTREE STREET , NE
ATLANTA, GA 30308

OC000000033290225

Date Mailed: 11/24/2008

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 **11/19/2008,** 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 **61/190,051.** 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
12/183,738	07/31/2008	William J. Havel	M190.313.101/P0021671.00

CONFIRMATION NO. 6130

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

Date Mailed: 11/24/2008

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 **11/19/2008,** 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 **61/190,052.** 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
12/251,637	10/15/2008	Matthew W. Davis	MPC0242US

CONFIRMATION NO. 5952

23413
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

CONVERSION REQUEST

Date Mailed: 11/25/2008

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 **11/21/2008,** 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 **61/190,053.** 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
11/849,075	08/31/2007	Paul Lewis	7678.1034

CONFIRMATION NO. 4961

CONVERSION REQUEST

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000033385248

Date Mailed: 12/01/2008

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 **10/26/2007,** 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 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 **61/190,054.** 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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Alexandria, VA 22313-1450
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

11/25/08

In re Application of:
LEWIS, PAUL et al.
Serial No.: 11/849,075
Filed: Aug. 31, 2007
Docket: 7678.1034
Title: DENTAL TREATMENT TRAYS AND STRIPS COMPRISING SILICONE

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. 26, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Oct. 26, 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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/765,086	06/19/2007	Duncan Arthur Newman	16199-1

CONFIRMATION NO. 6843

CONVERSION REQUEST

AIR MAIL
Duncan Newman
c/o Newman Engineering
61 Research Road
Toronto, ON M4G 2G8
CANADA

OC000000033385327

Date Mailed: 12/02/2008

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 **05/30/2008,** 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 **61/190,055.** 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, VA 22313-1450
www.uspto.gov

Duncan Newman
c/o Newman Engineering
61 Research Road
Toronto ON M4G 2G8 CA CANADA

11/26/08

In re Application of:
NEWMAN, DUNCAN ARTHUR
Serial No.: 11/765,086
Filed: Jun. 19, 2007
Docket: 16199-1
Title: SEALING BEVERAGE CONTAINER WITH TILTING LID

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 13, 2008 under 37 CFR 1.53 (C) (2).

The petition filed on May 13, 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 11765086 on 12/02/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/781,840	07/23/2007	Paul Lewis	7678.1059

CONFIRMATION NO. 6527

CONVERSION REQUEST

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

OC000000033385208

Date Mailed: 12/02/2008

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 **11/08/2007,** 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 **61/190,056.** 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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

11/25/08

In re Application of:
LEWIS, PAUL et al.
Serial No.: 11/781,840
Filed: Jul. 23, 2007
Docket: 7678.1059
Title: SELF-LIGATING ORTHODONTIC BRACKET WITH SLIDING LIGATION COVER

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. 8, 2007 under 37 CFR 1.53 (C) (2).

The petition filed on Nov. 8, 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 11781840 on 12/02/2008

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/615,512	12/22/2006	Parag Gokhale	COMMV.043A

CONFIRMATION NO. 1011

CONVERSION REQUEST

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000033742435

Date Mailed: 12/23/2008

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 **11/19/2007,** 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 **61/190,057.** 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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OCT 30 2008

TECHNOLOGY CENTER 2100

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: Parag GOKHALE, et al.
Serial No.: 11/615,512
Filed: Dec 16, 2006
Docket: COMMV.043A
For: REMOTE MONITORING IN A COMPUTER NETWORK

DECISION ON PETITION

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53(c)(2).

The petition filed on Nov 19, 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)- (iv).

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 the undersigned whose telephone number is (571) 272-4147.

/Kim Huynh/

Kim Huynh, Quality Assurance Specialist
TC 2400, Computer Architecture, Software, and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/615,512	12/22/2006	Parag Gokhale	COMMV.043A	1011

20995 7590 10/31/2008
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
CALDWELL, ANDREW T	
ART UNIT	**PAPER NUMBER**
2442	

NOTIFICATION DATE	DELIVERY MODE
10/31/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/250,532	10/13/2008	Karlheinz Lier	11884-506999

CONFIRMATION NO. 3955

53000
KENYON & KENYON LLP
1500 K STREET N.W.
WASHINGTON, DC 20005

CONVERSION REQUEST

OC00000033745567

Date Mailed: 12/22/2008

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 **12/01/2008,** 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 **61/190,058.** 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
12/236,501	09/24/2008	Serafino CANINO	074885-00082

CONFIRMATION NO. 8032

CONVERSION REQUEST

27805
THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

OC00000033746077

Date Mailed: 12/22/2008

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 **12/08/2008,** 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 **61/190,059.** 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
12/249,010	10/10/2008	JULIAN ADIN MANN III	P08500US00

CONFIRMATION NO. 1909

22885
MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

CONVERSION REQUEST

Date Mailed: 12/23/2008

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 **11/19/2008,** 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 **61/190,060.** 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)
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/245,408	10/03/2008	William Edwin Kuhns	

CONFIRMATION NO. 3925

CONVERSION REQUEST

Stephanie Lindsey
1182-B Washington Street
Covington, GA 30014

OC00000033766217

Date Mailed: 12/23/2008

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 **12/04/2008,** 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 **61/190,061.** 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
12/245,408	10/03/2008	William Edwin Kuhns	

CONFIRMATION NO. 3925

CONVERSION REQUEST

Stephanie Lindsey
1182-B Washington Street
Covington, GA 30014

OC00000033766217

Date Mailed: 12/23/2008

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 **12/04/2008,** 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 **61/190,061.** 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
11/936,216	11/07/2007	Michael Collins Pinkus	18192.0004U1

CONFIRMATION NO. 9413

Michael C Pinkus
560 Williston way
Alpharetta, GA 30005

CONVERSION REQUEST

OC000000034098257

Date Mailed: 01/16/2009

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 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 **61/190,062.** 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)
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/331,582	12/10/2008	Ruth Jenkins	

CONFIRMATION NO. 2866

84131
Ruth Jenkins
9623 Aventide Lane
Charlotte, NC 28215

CONVERSION REQUEST

OC000000034098844

Date Mailed: 01/16/2009

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 **01/02/2009,** 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 **61/190,063.** 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
11/838,092	08/13/2007	Theodore Charles Lamson	83455.0002.D6

CONFIRMATION NO. 6137

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC000000034512115

Date Mailed: 02/11/2009

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 **61/190,064.** 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
11/890,805	08/06/2007	Majed Matar	08-789

CONFIRMATION NO. 8534

CONVERSION REQUEST

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

OC000000034366564

Date Mailed: 02/17/2009

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 **07/16/2008,** 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 **61/190,065.** 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)
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JAN 26 2009

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

Matar et al.
Serial No.: 11/890,805
Filed: August 6, 2007
Attorney Docket No.: **08-789**

: CONVERSION TO PROVISIONAL

This is in response to applicants' request, filed July 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
Technology Center 1600

Copied from 11890805 on 02/17/2009

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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
11/728,033	03/22/2007	Jim Pitkow	FRDWP004

CONFIRMATION NO. 8625

CONVERSION REQUEST

21912
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

OC000000034589934

Date Mailed: 02/17/2009

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 **10/15/2007,** 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 **61/190,066.** 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, VA 22313-1450
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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

In re Application of: Jim PITKOW, et al.
Serial No.: 11/728033
Filed: November 30, 2007
Docket: FRDWP004
Title: DATA TRANSFER FOR NETWORK INTERACTION FRAUDULENCE DETECTION

DECISION ON PETITION UNDER 37 CFR 1.53(C)(2).

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53(c)(2).

The petition filed on January 09, 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)-(iv).

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 the undersigned whose telephone number is (571) 272-4147.

Kim Huynh,
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

Copied from 11728033 on 02/17/2009

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/101,701	04/11/2008	William Brady	910180.404C1

CONFIRMATION NO. 8763

85377
Seed Intelectuall Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seatle, WA 98104

CONVERSION REQUEST

OC000000034590325

Date Mailed: 02/17/2009

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 **02/10/2009,** 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 **61/190,067.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/101,701	04/11/2008	William Brady	910180.404C1	8763

85377 7590 02/13/2009

Seed Intelectuall Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seatle, WA 98104

EXAMINER	
SCHWADRON, RONALD B	

ART UNIT	PAPER NUMBER
1644	

MAIL DATE	DELIVERY MODE
02/13/2009	PAPER

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

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

Copied from 12101701 on 02/17/2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FEB 1 3 2009

Seed Intelectuall Property Law Group PLLC
701 Fifth Avenue, Suite 5400
Seatle WA 98104

Brady et al.	:
Serial No.: 12/101,701	: CONVERSION TO PROVISIONAL
Filed: April 11, 2008	:
Attorney Docket No.: **910180.404C1**	:

This is in response to applicants' request, filed February 10, 2009, 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
Technology Center 1600

Copied from 12101701 on 02/17/2009

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/624,254	01/18/2007	Craig L. Schmidt	P0025797.00

CONFIRMATION NO. 6280

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

Date Mailed: 02/17/2009

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 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 **61/190,068.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/624,254	01/18/2007	Craig L. Schmidt	P0025797.00	6280

27581 7590 01/12/2009

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

EXAMINER	
ART UNIT	PAPER NUMBER
3766	

MAIL DATE	DELIVERY MODE
01/12/2009	PAPER

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

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

Copied from 11624254 on 02/17/2009

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11624254	1/18/07	SCHMIDT ET AL.	P0025797.00

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

EXAMINER	
CARL H.. LAYNO	
ART UNIT	**PAPER**
3766	20081210

DATE MAILED:

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

Commissioner for Patents

Applicant's petition to convert a regular non-provisional application to a provisional application in accordance with 37 CFR 1.53(c)(2) and MPEP 601.01(c)(I) has been approved.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

/Donald T. Hajec/
Director, TC 3700

Copied from 11624254 on 02/17/2009

Copied from 11624254 on 02/17/2009

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

CYCLE-ANALYSIS, LLC
PO BOX 229
NARVARRO, CA 95463

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Robert Karol :
Application No. 61/190,502 : ON PETITION
Filed: August 28, 2008 :
Attorney Docket No. :

This is in response to the communication, filed August 14, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application was held abandoned for a failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed September 16, 2008. The Notice required additional filing fees to complete the search fee and set a two (2) months period for reply.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that petitioner submitted the filing fee and surcharge of $30 as required by the Notice mailed September 16, 2008. However, effective September 30, 2008, the filing fee was increased to $110. Since any fee amount paid on or after September 30, 2008 must be paid at the new amount, the filing fee was deficient by $5. It is noted that applicant didn't provide an authorization to charge any fee deficiencies to a deposit account or credit card. Consequently the application became abandoned by operation of law on December 17, 2008.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the October 20, 2008 Office action accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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.

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 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 April M. Wise at (571) 272-1642. All other inquiries concerning this application should dbe directed to the Office of Patent Application Processing.

/dab/
David Bucci
Petitions Examiner
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 Office action dated October 20, 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
61/190,502	08/28/2008	Robert Karol	

CONFIRMATION NO. 2443

Cycle-Analysis LLC
PO box 229
Navarro, CA 95463

FORMALITIES LETTER

Date Mailed: 10/20/2008

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 insufficient.
  Applicant must submit $5 to complete the basic filing fee for a small entity.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$5** for a small entity
- **$5** Statutory basic filing fee.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/amanalac/

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

Date: 08/16/2009

To Commissioner of Patents,
From: Alex Socolof, David Valin
Subject: Patent Office Action Confirmation No. 7497 Abandonment Letter

Today I received an abandonment office action letter dated 08/04/2009, that I had not responded to an office action letter mailed 11/24/2008 and that because I did not respond to that office action letter my patent application was abandoned.

The application number is 12/290,390 filed 10/30/2008 first named inventor David A. Valin and Second named inventor Alex Socolof.

We received the patent return postcards from the patent application we filed, within 2 weeks after filing, but did not receive any correspondence until this current abandonment notice. The address that this abandonment notice was sent to is my home address: Alex Socolof The Heart Exchange, 70 Tuttle Road, Briarcliff manor, NY 10510. As it is my home address and given the importance and expense of filing this patent, I would have never overlooked this office action. Only I read my mail and handle it, and any government and patent related documents I have a special filing place for these letters.

Also I have a special calendar set for any responses about the patents that I have filed, so that I do not miss the deadlines for responses to office actions. I have searched my system here thoroughly and I know I never received the office action in question.

At this time I respectfully request that this patent application be reinstated, and that the office action that I did not receive be re sent to me to proceed with the patent process.

Thank You
Alex Socolof

David Valin

Inventor 1 Address: David Valin 56-06 138th Street #4 Flushing, NY 11355
Inventor 2 Address: Alex Socolof The Heart Exchange, 70 Tuttle Road, Briarcliff Manor, NY 10510

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OIPE/IAP
AUG 19 2009

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P.O. Box 1450
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ZHIHAO LAO
EGTRAN INC
829 FLYNN ROAD
CAMARILLO CA 93012

COPY MAILED

DEC 0 7 2009

OFFICE OF PETITIONS

In re Application of :
Lao, et al. :
Application No. 61/190,674 : DECISION
Filed/Deposited: 17 May, 2006 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 28 August, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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 of Missing Parts (coversheet, surcharge) mailed on 17 September, 2008, with reply due absent an extension of time on or before 17 November, 2008.

The application went abandoned by operation of law after midnight 17 November, 2008.

The Office mailed the Notice of Abandonment on 17 July, 2009.

On 28 August, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of coversheet and showing of surcharge payment and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

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

---

[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.

It appears that the requirements under the rule 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.

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DRW Oct-09

SANDOR SIPOS
5232 FIGHTING FISH WAY
LAS VEGAS NV 89118

COPY MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of :
Sandor Sipos :
Application Number: 61/190995 : LETTER REGARDING PETITION
Filed: 04/30/2009
For: SELF CONDITIONED HYDRAULIC :
GEAR MOTOR :
:

This is a decision in reference to the papers filed on April 30, 2009, which are treated as a petition under 37 CFR 1.10(c) to accord the response filed on April 30, 2009, a filing date of October 29, 2008.

The petition is **DISMISSED** for the reasons stated.

The provisional application was deposited on September 4, 2008, without a specification. Accordingly, on October 20, 2008, a Notice of Incomplete Provisional Application was mailed, stating that the specification was missing, and that a complete specification, in compliance with 35 U.S.C. § 112, was required. A two (2)-month period for reply was set.

On April 23, 2009, a Notice of Termination of Proceedings was mailed.

On April 30, 2009, the subject papers were filed, along with a copy of 12 pages of specification and an Express Mail Post Office to Addressee Customer Label showing a date-in of October 29, 2008, and a copy of the Notice of Incomplete Provisional Application mailed on October 20, 2008.

At the outset it is noted that 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application. As this provisional application contains a cover sheet listing Sandor Sipos as the sole inventor. Accordingly, any petition must be signed by the inventor or his attorney.

Nevertheless, it appears that petitioner asserts that the response to the Notice of Incomplete Provisional Application was filed on October 29, 2008.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

---

[1] See 37 CFR 1.6(a).

The petition lacks item (2)

In regards to item (2), a review of the record reveals that petitioner did not place the Express Mail number on the specification alleged to have been timely filed on October 29, 2008. Any renewed petition should identify where the Express Mail label number can be found in the originally-filed application papers.

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

The difficulty caused by an applicant's failure to place an Express Mail label number on a paper is clearly illustrated by this case. Since no Express Mail label number was placed on the papers filed in response to the Notice of Incomplete Provisional Application prior to mailing, the USPTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the reply was filed on October 29, 2008.

It is noted that petitioner has supplied a copy of a USPS sales receipt showing that postage for the Express Mail label included with the papers was purchased on October 29, 2008. However, the sales receipt does not serve as evidence under 37 CFR 1.10 because the sales receipt indicates only that petitioners paid for the Express Mail shipment on October 29, 2008, not that the Express Mail envelope was accepted by the USPS as deposited on that date.

In the absence of any evidence linking the Express Mail mailing asserted to have been sent on October 29, 2008, to the specification supplied with the subject petition, the specification must be considered to have been filed on the date the specification was received in the Office, April 30, 2009.

In this regard, 37 CFR 1.53(c) states 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.

Accordingly, the provisional application will be accorded a filing date on April 30, 2009, using the application papers supplied on September 4, 2008, and the specification filed on April 30, 2009.

If petitioner has evidence that the specification was timely filed, petitioner should submit said evidence with a proper petition under 37 CFR 1.10 or 1.53(e) and the fee required by law.

Any petition should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period is **NOT** extendable.[2]

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

The application is referred to the Office of Patent Application Processing for further processing with a filing date of **April 30, 2009**, using the original application papers as well as the specification supplied on April 30, 2009.

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

---

[2] 37 CFR 1.181(f).

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.

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.
DURHAM NC 27707

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Lengsfeld et al. : DECISION ON PETITION
Application No. 61/191,060 :
Filed: September 5, 2008 :
Atty Docket No. 1406/561 PROV :

This is a decision on the PETITION UNDER 37 C.F.R. 1.53(c) filed November 24, 2008. Applicants request that the Office accord the above-identified application a filing date of September 5, 2008, with figures 5 and 6 considered part of the original application disclosure.

The petition is **DISMISSED**.

Any request for reconsideration 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). This time period is not extendable.

Application papers in the above-identified application were deposited on September 5, 2008. However, on October 3, 2008, the Office of Patent Application Processing mailed applicants a NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION. Applicants were thereby notified that the application had been accorded a filing date; however, figures 5 and 6 described in the specification appeared to have been omitted from the application.

In response, the instant petition was timely filed. Applicants maintain that the omitted items, figures 5 and 6, were in fact deposited with the U.S. Patent and Trademark Office on September 5, 2008. In support thereof, applicants submit a copy of the two (2) sheets of drawings containing Figures 5 and 6 from the subject application as filed and a copy of their return postcard receipt without any Office date-stamp thereon.

Applicants' evidence has been considered, but not found persuasive that figures 5 and 6 were present in the application on filing. The PTO file is the Official record of the papers originally filed in this application. A review of the image file wrapper for this application reveals that the papers deposited on September 5, 2008, included 4 sheets of drawings (Figs. 1-4). No figures 5 and 6 were among the papers received. Since no sheets 5/6 and 6/6 containing figures 5 and 6 are present in the file among the original application papers, it is concluded that no figures 5 and 6 were filed.

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 evidence. The best evidence of what was filed on September 5, 2008, is a postcard receipt. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

The postcard submitted by applicants is properly itemized, but is not date stamped by the Office. Accordingly, the postcard is not *prima facie* evidence of receipt of the papers listed thereon in the Office.

In addition, the Express Mail mailing label submitted on petition considered alone or in conjunction with the other evidence is not persuasive evidence that figures 5 and 6 were among the papers deposited in Express Mail service on September 5, 2008. The Express Mail provisions, 37 CFR 1.10(e), apply in those situations in which the correspondence at issue was lost in toto (i.e., the entire correspondence was not delivered to the Office). Where as here there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, 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 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.

Applicants have not overcome the evidence of record that figures 5 and 6 were not deposited in the Office on September 5, 2008. Applicants have not provided convincing evidence that the figures were received in the Office but misplaced.

In view thereof, the petition must be dismissed.

Figures 5 and 6 will not be entered on petition.

Receipt of the $400 petition fee is acknowledged.

The application **with a filing date of September 5, 2008** and including 4 sheets of drawings, is being returned to the Office of Patent Application Processing. It is noted that no response to the Letter re Non-English Language Application Papers in a Provisional Application mailed October 3, 2008 has been received.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 0 2 2009

OFFICE OF PETITIONS

Elite Business Concepts
King Chrome Grille and Wheels
P.O. Box 25374
Winston-Salem, NC 27114

In re Application of Bullock :
Application No. 61/191,276 : Decision on Petition
Filing Date: September 6, 2008 :
For: Elite Business Concept Advanced :
Auto Technology and Designs :

This is a decision on the petition filed September 1, 2009, to convert the instant application from a provisional application to a design application.

The petition is **dismissed**.

Patent regulations do not provide for the conversion of a provisional application to a design application. Therefore, 37 CFR 1.182 is applicable in this case. 37 CFR 1.182 covers "situations not specifically provided for in the regulations."

The Office will not consider the merits of a petition absent payment of a petition fee. The fee required for a petition under 37 CFR 1.182 is $400. Petitioner has not submitted any petition fee. Therefore, the merits of the petition will not be considered.

The merits of the petition will be considered if a request for reconsideration and $400 are submitted. However, petitioner may wish to note, if the merits of a request for reconsideration are considered, and the petition is dismissed because the Office lacks the statutory authority to convert provisional applications to design applications, or for any other reason, the $400 fee will *not* be refunded.

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 1.182."

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

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

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Elite Business Concepts
King Chrome Grille and Wheels
P.O. Box 25374
Winston-Salem, NC 27114

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APR 12 2010

OFFICE OF PETITIONS

In re Application of Bullock :
Application No. 61/191,276 : Decision on Petition
Filing Date: September 6, 2008 :
For: Elite Business Concept Advanced :
Auto Technology and Designs :

This is a decision on the "Amendment for application for Provisional" filed December 7, 2009, which is being treated as a petition to convert the instant application from a provisional application to a design application. The "petition" was supplemented on December 28, 2008, and April 8, 2010.

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 1.182.*"

A prior petition was filed September 1, 2009.

A decision dismissing the prior petition was mailed December 2, 2009. The decision stated, with emphasis added,

> Patent regulations do not provide for the conversion of a provisional application to a design application. Therefore, 37 CFR 1.182 is applicable in this case. 37 CFR 1.182 covers "situations not specifically provided for in the regulations."
>
> *The Office will not consider the merits of a petition absent payment of a petition fee.* The fee required for a petition under 37 CFR 1.182 is $400. *Petitioner has not submitted any petition fee.* Therefore, the merits of the petition will not be considered.
>
> *The merits of the petition will be considered if a request for reconsideration and $400 are submitted.* However, petitioner may wish to note, if the merits of a request for reconsideration are considered, and the petition is dismissed because the Office lacks the

statutory authority to convert provisional applications to design applications, or for any other reason, the $400 fee will *not* be refunded.

Neither the current petition nor any paper supplementing the petition is accompanied by payment of the required $400 petition fee. Therefore, the petition is dismissed.

Since the petition is dismissed, petitioner may request a refund of the $140 petitioner paid on September 8, 2009. The request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

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

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

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 17 2009

OFFICE OF PETITIONS

GARY L. EASTMAN
GARY L. EASTMAN, APLC
401 W. "A" STREET, SUITE 1785
SAN DIEGO CA 92101

In re Application of :
Glenn ABEL :
Application No. 61/191,277 : DECISION ON PETITION
Effective Date: September 05, 2008 :
Attorney Docket No. **ABEL PPA01** :

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 **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 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 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 October 14, 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 Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JACOB S. MATTIS**
THE MATTHEWS FIRM
2000 BERING DRIVE, SUITE 700
HOUSTON TX 77057

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

Reida Ann Sutphin
25 munroe Street, #117
Leesburg, VA 20175

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of :
Reida Anne Sutphin et al. :
Application No. 61/191,647 : DECISION ON PETITION
Filed: September 11, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 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 Non-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. A Notice of Abandonment was mailed July 7, 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 (2).

As to item (2) the petition fee has not been paid. In order for consider this petition, a fee in the amount of $810 must be submitted.

The Provisional Application For Patent Cover Sheet appears to list two co-inventors, Reida Anne Sutphin and Reida Kent Sutphin. Clarification is requested as to whether these are two distinct co-inventors or a single inventor. If a single inventor, applicant needs to indicate which is the proper name of the inventor.

Additionally a petition to accept unavoidably delayed payment of maintenance fee in an expired patent (37 CFR 1.378(b)) was filed subsequently with this petition. This may have been filed in error, since a patent was not issued for this application. If the intent was to file a Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a) a fee for this petition is $270. A copy of this petition is attached to this decision.

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

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

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Reida Sutphin
25 Monroe Street #117
Leesburg, VA 20175

Attachment: Form No. PTO/SB/61

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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DIW Dec-08

DAVID LEWIS
1250 AVIATION AVE., SUITE 200B
SAN JOSE CA 95110

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Collins et al. :
Application Number: 61/191900 : DECISION ON PETITION
Filing Date: 09/12/2008 :
Attorney Docket Number: 48-17/134PROV :

Receipt is acknowledged of the "Petition re: Notice of Omitted Item(s) In a Provisional Application," filed on November 25, 2008, which is treated as a petition to withdraw the Notice of Omitted Item(s) in a Provisional Application.

The petition is **DISMISSED**.

The application was filed on September 12, 2008. However, on October 9, 2008, the Office of Patent Application Processing mailed a "Notice" stating that the application had been accorded a filing date of September 12, 2008, and advising applicant that Figure 2 described in the specification appeared to have been omitted.

In response, the present petition was filed on November 25, 2008. Petitioner explains that Figure 2 was not missing on December 12, 2007. Instead, state petitioners, "Fig 2. was incorrectly labeled as 'Fig. 1B.' Therefore, the descriptions of 'FIG. 1' and 'FIG. 2' present in the specification refer to FIG. 1A and FIG. 1B of the submitted drawings."

It is obvious from the petition that no drawing was actually missing on September 12, 2007. Rather, the drawing of Figure 2 was simply mislabeled as a result of the applicant's filing error. However, the "Notice" mailed on October 9, 2008, was correct in stating that Figure 2 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

As the present petition was not necessitated by any error on the part of the Office, a petition fee of $400.00 is due. The petition fee has been received, and will not be refunded.

The application will be processed using only the application papers filed on September 12, 2008.

The application is being returned to the Office Patent Application Processing for further processing with a filing date of September 12, 2008, using only the application papers filed on that date.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 25 2010

OFFICE OF PETITIONS

JAMES R. HARRIS, JR.
4185 FAIRWAY DRIVE
CEDAR, MI 49621

In re Application of	:	
JAMES REGINALD HARRIS, JR.	:	
Application No. 61/192,352	:	RESPONSE
Filed: September 18, 2008	:	
Attorney Docket No. N/A	:	

This is in response to the petition filed July 6, 2009 in the above-identified application.

The petition is **DISMISSED** without being considered on the merits.

It is noted that the petition filed on July 6, 2009 is considered to be a petition for revival of an abandoned application for patent. However, as petitioner appears to have indicated both "unavoidable + unintentional delay", it is not clear whether petitioner intended for the petition to be treated under 37 CFR 1.137(a) based upon unavoidable delay or under 37 CFR 1.137(b) based upon unintentional delay.

If petitioner intended the petition filed July 6, 2009 to be treated under 37 CFR 1.137(a), then 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 $540. 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.

If petitioner intended the petition filed July 6, 2009 to be treated under 37 CFR 1.137(b), then 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.

Since the petition filed July 6, 2009 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.

Applicant is advised that a grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply to the "Notice to File Missing Parts of Provisional Application" mailed March 18, 2008 in the form of a complete specification as prescribed by 35 U.S.C. 112; (2) the petition fee under 37 CFR 1.17(l) of $540.00 if non-small entity (or one-half that amount if applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee); and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. Petition Form PTO/SB/61 for revival based upon the unavoidable standard can be found on the United States Patent and Trademark Office's website.

Applicant is also advised that a grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the "Notice to File Missing Parts of Provisional Application" mailed March 18, 2008 in the form of a complete specification as prescribed by 35 U.S.C. 112; (2) the petition fee under 37 CFR 1.17(m) of $1,620.00 if non-small entity (or one-half that amount if applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee); and (3) a proper statement of unintentional delay. Petition Form PTO/SB/64 for revival based upon the unintentional standard can be found on the United States Patent and Trademark Office's website.

The two petitions are similar but have very different standards. Petitions under the unavoidable standard are less expensive; however, the showing that must be made is more rigorous. You should further note that where there has been an extended period of delay, the Commissioner may inquire as to the circumstances of that delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this Response is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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) 272-3687.

Anthony Knight
Supervisor
Office of Petitions

CC JAMES REGINALD HARRIS, JR.
C/O MARY HARRIS
4185 FAIRWAY DRIVE
CEDAR, MI 49621

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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FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Kozak et al.	:	
Application No. 61/192,399	:	DECISION GRANTING
Filed: September 18, 2008	:	PETITION
Attorney Docket No. EAZ-081196PV	:	

This is a decision on the petition filed February 13, 2009, requesting that the above-identified application be accorded a filing date of September 18, 2008, rather than the presently accorded date of September 17, 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 September 18, 2008, pursuant to 37 CFR 1.10. The Express Mail label No. EM133502379US bears a handwritten "date-in" of September 17, 2008. Petitioner is alleging that the date of mailing shown in the "date-in" is a U.S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is September 18, 2008. The same Express Mail label number appears on the original "Provisional Application for Patent Cover Sheet." The Express Mail label number also appears on the "Certificate of Mailing by Express Mail" and includes a statement of express mailing dated September 18, 2008 on the cover page for the application papers.

37 CFR 1.10(d) specifically requires that any petition 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." Although a copy of a letter from the attorney to the applicant dated September 198, 2008 was provided, it is unclear whether the document was created *before* or *after* the deposit.

However, 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 September 18, 2008 at 4:48 p.m. at the Chicago, IL USPS.

Therefore, in view of the above evidence, it is concluded that the application was deposited in Express Mail service on **September 18, 2008**. Accordingly, the instant application is entitled to a filing date of September 18, 2008 and has been so accorded.

The petition is **GRANTED**.

The application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to September 18, 2008 and issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Sharon Grace
3609 1st Ave
Sacramento CA 95817-2001

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Sharon Grace	:	DECISION ON
Application No. 61/192,857	:	PETITION
Filed: September 23, 2008	:	
Title: EASY READER A.K.A.	:	
EASY READER	:	

This is in response to the communication filed November 21, 2008, requesting pursuant to 37 CFR 1.183 that the $25 surcharge for late filing fee and the $50 fee for processing a returned check be waived.

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 C.F.R. § 1.136(a) are not permitted. See 1.181(f).

37 CFR § 1.183 provides that:

> 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(f).

No fee for consideration of this petition was submitted. Accordingly, the petition is dismissed.

Moreover, *pro se* applicant is advised that even if the fee for consideration were presented (or were not required as in under

not likely be granted. There is no provision in the rules for waiving these required fees.

The Office of Patent Application Processing has been advised of this decision. The application is, thereby, returned to the Office of Patent Application Processing for processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
61/193,190	11/04/2008	Marty Scott Jones	

CONFIRMATION NO. 2659

CONVERSION REQUEST

Marty Scott Jones
1352 South T Place
Richmond, IN 47374

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 **11/04/2009,** 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 amendment including at least one claim in compliance with 35 U.S.C. 112, second paragraph, as required by 37 CFR 1.53(c)(3).

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

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

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

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Banik et al. :
Application No. 61/193,235 : DECISION ON PETITION
Filed: 11/07/2008 :
Attorney Docket No. 55060 :

This is a decision on the petition under 37 CFR 1.53(e), filed December 3, 2008, requesting that the above-identified application be accorded a filing date of November 7, 2008.

On November 7, 2008, applicants deposited the above-identified application. On December 1, 2008, the Office sent applicants a "Notice of Incomplete Provisional Application," indicating that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items.

On December 3, 2008, applicants submitted the present petition, 5 drawing sheets, and a return date-stamped postcard receipt. The postcard acknowledged receipt of 5 drawing sheets in the United States Patent and Trademark Office (USPTO) on November 7, 2008.

Upon review of the record, the 5 sheets of drawing deposited on November 7, 2008, have not been located among the application papers. Nevertheless, the postcard receipt serves as *prima facie* evidence that the application papers deposited on November 7, 2008, included 5 drawing sheets, which were subsequently misplaced in the USPTO. See MPEP 503. Therefore, the application, including the 5 drawing sheets, was complete on filing and will be granted a filing date of November 7, 2008.

Accordingly, the petition is **granted**. The Notice of Incomplete Provisional Application was sent in error and is hereby withdrawn. The $400.00 petition fee is unnecessary and will be refunded.

This application is being referred to the Office of Patent Application Processing for processing of the **above-identified application with a filing date of November 7, 2008**, using the 5 sheets of drawings submitted with the present petition on December 3, 2008.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 29 2010

OFFICE OF PETITIONS

Novak, Druce & Quigg LLP
1300 I Street, N.W.
Suite 1000, West Tower
WASHINGTON DC 20005

In re Application of :
John Carter Bird, et al. :
Application No. 61/193,406 : ON PETITION
Filed: November 25, 2008 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 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 January 2, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 3, 2009. The Notice of Abandonment was mailed September 10, 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).

There is no indication that the labeled compact discs that were required by the Notice to File Missing Parts of a Provisional Application mailed January 2, 2009 were filed herewith petition. (See 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) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NAJIB BABUL
146 MEDINAH DRIVE
BLUE BELL PA 19422-3212

COPY MAILED

AUG 2 8 2009

OFFICE OF PETITIONS

In re Application of :
Babul, Najib :
Application No. 61/193,529 : ON PETITION
Filed: December 4, 2008 :
Attorney Docket No. 120408GBPGSCD :

This is a decision on the petition filed July 1, 2009, requesting that the above-identified application be accorded a filing date of December 4, 2008, rather than the presently accorded date of December 5, 2008. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on December 8, 2008, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of a postal service sales receipt, which shows Express Mail label No. EO 954744664 US as having a receipt date of December 4, 2008 and a Track & Confirm record showing that the package in question was accepted on December 4, 2008, at 4:40 p.m. at the Blue Bell, Pennsylvania USPS. The same Express Mail receipt number appears on the original "Provisional Application for Patent Cover Sheet." Additionally, the Express Mail label number appears on the cover page for the application papers dated December 4, 2008.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on December 4, 2008.

The petition is **GRANTED**.

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

This application file is being forwarded to the Office of Patent Application Processing (OPAP) for further **processing with a filing date of December 4, 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 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
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Mark Nair :
Application No. 61/193,652 : ON PETITION
Deposited: December 12, 2008 :
For: Portable Solar Canopy With :
Modular Connections

This is in response to the "PETITION UNDER 37 C.F.R.§ 1.53(e)(2)[1] filed March 4, 2009.

Application papers in the above-identified application were deposited on December 12, 2008. However, on January 29, 2009, 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 drawings.

Petitioner contends that the application papers, which included 16 pages of drawings (figures 1-6), were submitted on December 12, 2008. In support of petitioner's argument, petitioner has provided a stamped postcard.

The evidence has been considered but it is not persuasive. A review of the official file confirms the Office did not receive 16 pages of drawings on December 12, 2008.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped

[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.

thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Although petitioner has provided a copy of a postcard receipt, the postcard will not serve as prima facie[1] evidence because it was not properly itemized and thus fails to establish the drawings were submitted upon filing. The postcard merely states "Provisional Application".

> If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. MPEP 503.

The assertions of Attorney Raymond Van Dyke that drawings were submitted on December 12, 2008 are not persuasive. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of evidence.

The "Notice" mailed January 29, 2009, was correct in advising applicant drawings had been omitted. Therefore, the "Notice" was properly mailed.

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[1] The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

The petition fee will not be returned.

It is noted the petition does not request in the alternative the later filing date of March 4, 2009 (the date of receipt of the drawings). Accordingly, no filing date will be accorded to this incomplete application.

Petitioner must contact the Office within **TWO MONTHS** from the mailing date in writing to indicate whether applicants desire the later filing date of March 4, 2009.

Otherwise petitioner may request a refund of the filing fee pursuant to 37 CFR 1.53(e)(3), less the $130.00 handling fee set forth in 37 CFR 1.21(n), from the Office of Finance.

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

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JUN 12 2009

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Mark Nair :
Application No. 61/193,652 : ON PETITION
Deposited: December 12, 2008 :
For: Portable Solar Canopy With :
Modular Connections

This is in response to the renewed petition "Request for Reconsideration" filed May 26, 2009. This petition is properly treated under 37 CFR 1.53.

Application papers in the above-identified application were deposited on December 12, 2008. However, on January 29, 2009, 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 drawings.

On renewed petition, petitioner contends that the application papers, which included 16 pages of drawings (figures 1-6), were submitted on December 12, 2008. Petitioner argues that the application papers, which included drawings, were hand delivered to the Office. In the alternative, petitioner has requested the later filing date of March 4, 2009.

The evidence has been considered but it is not persuasive. A review of the official file confirms the Office did not receive 16 pages of drawings on December 12, 2008.

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

Although petitioner has provided a copy of a postcard receipt, the postcard will not serve as prima facie[1] evidence because it was not properly itemized and thus fails to establish the drawings were submitted upon filing. The postcard merely states "Provisional Application".

> If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. MPEP 503.

The assertions of Attorney Raymond Van Dyke that drawings were submitted on December 12, 2008 are not persuasive. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of evidence.

The "Notice" mailed January 29, 2009, was correct in advising applicant drawings had been omitted. Therefore, the "Notice" was properly mailed.

The petition fee will not be returned.

---

[1] The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

In light of the above, the earliest filing date that the application is entitled to is March 4, 2009.

To the extent the instant petition requests a filing date in the application, the petition is **GRANTED**.

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

- **granting of the filing date to March 4, 2009**; and
- **for issuance of a filing receipt.**

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Merchant & Gould P.C.
225 Reinekers Lane, Suite 560
Alexandria, VA 22314

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

MOUNTAIN TOP MINISTRIES
BYRON K. THATCH SR
P.O. BOX 46324
BEDFORD, OH 44146

COPY MAILED

DEC 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Byron Keith Thatch Sr.	:	
Application No. 61/194,142	:	DECISION ON PETITION
Filed: September 24, 2008	:	
Attorney Docket No. None	:	

This is a decision on the petition filed 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 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.

However, if petitioner contests the abandonment of the above application and believes that no fee should be assessed, a petition under 37 CFR 1.181 to withdraw the holding of abandonment may be more appropriate. *See* MPEP 711.03(c)(I)(A) "Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action". Petitioner should note that filing a petition under 37 CFR 1.181 does not necessarily guarantee that it will be granted.

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 Alicia Kelley at (571) 272-6059.

Rajnesh Krishnamurthy

for 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
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Application of :
Shiau-Ching Wu et al. :
Application No. 61/194,921 : ON PETITION
Filed: October 1, 2008 :
Attorney Docket No. CP1776 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2010, and resubmitted on June 8, 2010, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

The application was filed October 1, 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 October 1, 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.

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

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AUG 14 2009

OFFICE OF PETITIONS

PENELOPE WARE
4406 SHERWOOD RD
JACKSONVILLE FL 32210-5835

In re Application of :
Penelope Ware :
Application No. 61/195,226 : ON PETITION
Filed: October 6, 2008 :
Title: Designer Liners AKA Designer :
Trash Bags

This is a decision on the letter, filed July 9, 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. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts of Provisional Application, mailed October 23, 2008. This Notice set an extendable period for reply of two months to file $5 for the remainder of the statutory basic filing fee, together with a late payment surcharge of $25. No fee having been received, the application became abandoned on December 24, 2008. The Office mailed a Notice of Abandonment on June 30, 2009.

To establish non receipt of an office action, a petitioner 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]

However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal master docket. Nevertheless, petitioner must explain her system for keeping track of correspondence, how she reminds herself of due dates, etc.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

A blank petition form for a petition to revive due to unintentional delay is enclosed for petitioner's convenience.

---

[1] MPEP 711.03(c)(II).

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)
Privacy Act Statement (1 page)

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
DNW OCT-09

HENRY J. SMITH
40670 CALLE TORCIDA
TEMECULA CA 92591

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:
Smith et al.	: LETTER DISMISSING PETITION
Application Number: 61/195237	: TO WITHDRAW HOLDING OF
Filing Date: 10/06/2008	: ABANDONMENT
For: ANTINUCLEAR ANTIBODY	:
UTILIZED AS A TARGETING AGENT	:
FOR PHARMACEUTICAL COMPOUNDS	:
USED IN THE TREATMENT OF CANCER	:
AND OTHER DISEASES	:

This is a decision in reference to the paper filed on August 13, 2009, which is treated as a paper requesting that the holding of abandonment be withdrawn.

The petition is **DISMISSED** for the reasons stated below.

This application became abandoned on January 21, 2009, for failure to submit a timely response to the Notice to File Missing Parts of Provisional Application mailed on November 20, 2008, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 3, 2009. The subject paper was filed on August 13, 2009.

The petition cannot be considered on the merits because it is unsigned. Specifically, 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application. As this application contains a provisional application for patent cover sheet listing Henry John Smith and James Roger Smith as joint inventors, the petition must be signed by all of the inventors or their registered patent attorney.

The letter states that the Notice mailed on November 20, 2008 was never received and requests that the Notice be resent.

With regard to petitioner's assertion that the Notice to File Missing Parts of Provisional Application mailed on November 20, 2008 was not received, a review of the record indicates no irregularity in the mailing of the Notice to File Missing Parts of Provisional Application mailed on November 20, 2008, 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. This presumption may be overcome by showing that the Notice mailed on November 20, 2008, was not in fact received.

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).

Applicant must providing the showing listed above with any renewed petition.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

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

REQUIRED REPLY

The reply required by the Notice to File Missing Parts of Nonprovisional Application mailed on November 20, 2008 must be filed with any petition to revive.

A copy of the Notice to File Missing Parts of Provisional Application mailed on November 20, 2008, has been enclosed for petitioners' reference in preparing the required reply.

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.

The petition fee (currently $810.00 for a small entity) must also be paid with the filing of a petition to revive. As Office fees are submit to change from time to time, petitioners may wish to consult the Office at www.uspto.gov or 1-800-PTO-9199 to verify the fee amount prior to submission of the petition.

The petition is **DISMISSED.**

Any request for reconsideration must be filed within **ONE (1) MONTHS** of the date of this decision. **This time 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

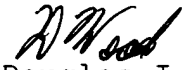
[1] 37 CFR 1.181(f).

P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf: Notice mailed on November 20, 2008
PTO/SB/64

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

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
61/195,237	10/06/2008	Henry John Smith	

CONFIRMATION NO. 7343

HENRY J. SMITH
40670 CALLE TORCIDA
TEMECULA, CA 92591

FORMALITIES LETTER

OC000000033104951

Date Mailed: 11/20/2008

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 insufficient.
  Applicant must submit $5 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 **$30** for a small entity
- **$5** 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.

/laguirre/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 13 2009

OFFICE OF PETITIONS

DENNIS W. WATSON
14131 HAPPY HILL ROAD
CHESTER, VA 23831

In re Application of :
Dennis W. Watson et al :
Application No. 61/195,342 : ON PETITION
Filed: October 6, 2008 :
Attorney Docket No. :

This is in response to the communication, filed August 7, 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 February 2, 2009, the Office mailed a Notice of Incomplete Reply (Notice). The application became abandoned on December 28, 2008, for failure to submit a timely response to the October 27, 2008 Notice. On July 17, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment. Specifically, petitioner states "I responded to correspondence received last January and submitted the requested addition $30.00 at that time, per instructions given to me by Ms. Richardson with your office."

Office record show $30.00 was received on January 23, 2009. However, the Notice to File Missing Parts mailed October 27, 2008 gave applicant two months to reply. On February 2, 2009, the Office mailed a Notice of Incomplete Reply stating the application will become abandoned unless applicant obtains an extension of time. No extension of time under the provisions of 37 CFR 1.136(a) was received; therefore, this application became abandon on December 28, 2008.

A courtesy copy of the October 27, 2008 and February 2, 2009 Notices 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.

Office record shows this application has two applicants. It is unclear if both applicants signed the petition received August 7, 2009. **Communications received at the USPTO must be signed by all of the applicants.** 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
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Enclosures: 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 Notices dated October 27, 2008 and February 2, 2009.

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
61/195,342	10/06/2008	Dennis W. Watson	

CONFIRMATION NO. 7511

Dennis W. Watson
14131 Happy Hill Road
Chester, VA 23831

FORMALITIES LETTER

OC000000032727778

Date Mailed: 10/27/2008

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 insufficient.
  Applicant must submit $5 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 **$30** for a small entity
- **$5** 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.

/fly/

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 DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/195,342	10/06/2008	Dennis W. Watson	

CONFIRMATION NO. 7511

OC000000034327951

Dennis W. Watson
14131 Happy Hill Road
Chester, VA 23831

Date Mailed: 02/02/09

NOTICE OF INCOMPLETE REPLY

Filing Date Granted

Applicant's reply to the Notice mailed on 10/27/08 was received in the U.S. Patent and Trademark Office on 01/23/09. The reply, however, was received after the expiration of the period for reply set forth in the Notice. The application will become **abandoned** unless applicant obtains an extension of the period for reply. An extension of the reply period may be obtained by filing a petition under 37 CFR 1.136(a). The petition must be accompanied by the appropriate fee as set forth in 37 CFR 1.17 (see the current fees below). **The date on which the reply, the petition, and the fee have been filed is the date of the reply and also the date for purposes of determining the period of extension and the corresponding amount of the fee due.** The expiration of the time period is determined by the amount of the fee paid. Applicant is advised that extensions may not be granted under 37 CFR 1.136(a) for more than FIVE MONTHS beyond the time period set in the Notice.

Mail date of Notice: 10/27/08

Last date that extension may be obtained: (Note: The petition and fee must be received by this date, or include a proper certificate of mailing under 37 CFR 1.8 with a date on or before this date, and extend the time to include this date.) 05/27/09

Length of Extension of Time	Fee under 37 CFR 1.17(a) effective October 2, 2008	
	Other than Small Entity	Small Entity
One Month	$130	$65
Two Months	$490	$245
Three Months	$1110	$555
Four Months	$1730	$865
Five Months	$2350	$1175

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Application Assistance Unit
(571) 272-4200

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

MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Ovadia, et al. :
Filed: October 7, 2008 : ON PETITION
Application No. 61/195,424 :
Dkt. No.: REINHO 3.8-008 :

This is a decision on the petition filed January 26, 2009 to accord the above-identified application a filing date of October 7, 2008.

The petition is **GRANTED**.

The application was submitted October 7, 2008 without drawings. The Notice of Incomplete Provisional Application (Notice) was mailed November 20, 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 in essence 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 October 7, 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 October 7, 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. Accordingly, the drawings submitted December 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 October 7, 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
www.uspto.gov

Soundblaze Media, LCC
4th Floor
519 Broome Street
New York NY 10013

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Application of
Clarence Newton Baker III
Application No. 61/195,432
Filing Date: October 7, 2008
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 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 October 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 December 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the filing fee and surcharge fee (2) the petition fee of $810 (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 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

cc: Clarence Baker
1062 Sterling Place
Brooklyn, NY 11213

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

Darnell Bonds
#3
6536 S. Woodlawn Ave
Chicago IL 60637

MAILED

OCT 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Darnell Bonds	:	
Application No.: 61/195440	:	DECISION ON
Filing or 371(c) Date: 10/07/2008	:	PETITION
Title of Invention: CHRISTMAS LIGHTS COLOR SELECTOR	:	

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed August 3, 2009. Petitioner avers nonreceipt of the Notice to File Missing Parts of Provisional Application, mailed October 28, 2008. The petition is properly treated as a petition under 37 CFR 1.181 (no fee).

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. 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"), October 28, 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 December 29, 2008. A Notice of Abandonment was mailed July 9, 2009.

The present petition

Applicant files the present petition and asserts that the Notice was not received.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

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

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

Analysis/conclusion

Regrettably, the petition is not grantable at this time. The Office requirements for granting a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication has been modified. The Office requires a statement from the Practitioner (or if there is no practitioner, a statement from petitioner) describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. In addition, a copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three-month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as

documentary proof of nonreceipt of the Office action. If no such master docket exists, the *practitioner should so state* and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition is dismissed without prejudice. Petitioner should file a Request for Reconsideration of Petition and include (1) the necessary statement – describing the system used for recording an Office action received at the correspondence address of record with the USPTO (petitioner should describe how correspondence from this Office is processed (i.e. placed in a file; reviewed and discarded, forwarded to another location) (2) provide a copy of a master docket, or, if no master docket exists, provide a copy of the application file jacket or other evidence listed above supporting Petitioner's assertion that the Notice was not received.

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

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

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

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

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

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

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

ZIRUS, INC.
C/O BALLARD SPAHR LLP
999 PEACHTREE STREET
SUITE 1000
ATLANTA GA 30309-3915

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Hodge et al.	:	
Application No. 61/195,770	:	DECISION ON PETITION
Filed: October 9, 2008	:	
Attorney Docket No: 01123.0015U1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice) mailed November 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 January 25, 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) Basic Filing fee shortage of $10.00 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 the undersigned at (571) 272-7751.

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

Joan Olszewski
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Rommie E. Amaro, et al.	:	
Application No. 61/195,796	:	DECISION GRANTING
Filed: October 8, 2008	:	PETITION
Attorney Docket No. UCSD027.001PR	:	

This is a decision on the petition filed January 7, 2009, requesting that the above-identified application be accorded a filing date of October 9, 2008, rather than the presently accorded date of October 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 October 9, 2008 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV 229176724 US bears a handwritten "date-in" of October 8, 2008; it also includes a USPS receipt date stamp of October 9, 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 October 9, 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 October 9, 2008, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of October 9, 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 for **correction of the filing date to October 9, 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

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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R. GIOVANNI FIMA
2392 FIRE MOUNTAIN DR.
OCEANSIDE CA 92054

MAILED

FEB 0 4 2010

OFFICE OF PETITIONS

In re Application of :
R. Giovanni FIMA, et al :
Application No. 61/196,075 : ON PETITION
Filed: October 14, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 31, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 1, 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) 3.

With respect to item 3: The statement of unintentional delay cannot be accepted because the declaration signed by Applicant R. Giovanni Fima does not include the signature of all applicants nor is there an indication that Applicant R. Giovanni Fima was ever given power of attorney to act on behalf of Applicants Gregorio J. Dulawan and Antony C. Tangorra. Accordingly, the petition is considered to not contain a proper statement of unintentional delay.

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

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

By Mail:
Mail Stop PETITION
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) 272-6735.

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

cc: GARY L. EASTMAN
401 WEST "A" STREET,
SUITE 1785
SAN DIEGO, CA 92101

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United States Patent and Trademark Office
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R. GIOVANNI FIMA
2392 FIRE MOUNTAIN DR.
OCEANSIDE CA 92054

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Application of :
R. Giovanni FIMA, et al :
Application No. 61/196,075 : ON PETITION
Filed: October 14, 2008 :
Attorney Docket No. :

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 **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 31, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 1, 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) (3).

With respect to item (3): The statement of unintentional delay cannot be accepted because the statement signed by Applicants R. Giovanni Fima and Antony C. Tangorra does not include the signature of deceased inventor Gregorio J. Dulawan legal representative. See MPEP 37 CFR 1.42. If the legal representative elects not to intervene, petitioner must show evidence that a diligent effort was made in an attempt to locate the legal representative and must provide the last known address of the legal representative. In this regard, petitioner should provide a statement of

facts which are relied on to establish that a diligent effort was made. Accordingly, the petition is considered to not contain a proper statement of unintentional delay.

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

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

By Mail:
Mail Stop PETITION
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) 272-6735.

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

cc: THOMAS JURGENSEN, M.S.J.D.
CATALYST LAW GROUP, APC
9710 SCANTON ROAD, SUITE 280
SAN DIEGO, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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TRIANGLE PATENTS, P.L.L.C.
P.O. BOX 28539
RALEIGH, NC 27611-8539

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of
Despina Viniotis
Application No. 61/196,076
Filed: October 14, 2008
Attorney Docket No. 4105-001

ON PETITION

This is a decision in response to the petition, filed July 22, 2009, to withdraw the holding of abandonment under the provisions of 37 CFR 1.181. This is also a decision on the petition under 37 CFR 1.137(b), filed September 16, 2009, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 4, 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 July 15, 2009. On July 22, 2009, the petition to withdraw the holding of abandonment was filed. Thereafter on September 16, 2009, the petition to revive under 37 CFR 1.137(b) was filed.

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

The record shows that the abandonment was proper, since the U.S. Patent and Trademark Office did not receive a facsimile transmission of the provisional cover sheet on November 6, 2008, as intended or on any date prior to January 4, 2009. Further, petitioner has not provided any convincing evidence that a timely response was filed. In fact, petitioner acknowledges in the petition to revive that the fax in question "was not satisfactorily received or confirmed by the USPTO". Thus, the present petition to revive is necessary.

The petition to revive under 37 CFR 1.137(b) 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 Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The petition lacks item (1).

In this regard, petitioner submitted a copy of the provisional cover sheet; however, the $25.00 surcharge has not been paid. Accordingly, the petition cannot be granted until the requisite surcharge has been paid.

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 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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TRIANGLE PATENTS, P.L.L.C.
P.O. BOX 28539
RALEIGH, NC 27611-8539

In re Application of
Despina Viniotis
Application No. 61/196,076
Filed: October 14, 2008
Attorney Docket No. 4105-001

ON PETITION

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

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 4, 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 January 15, 2009. In response, on September 16, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 27, 2009. On October 30, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 November 4, 2008 is accepted as being unintentionally delayed.

Petitioner is reminded that 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.

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." 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RONALD J. MEETIN, ATTORNEY AT LAW
210 CENTRAL AVENUE
MOUNTAIN VIEW CA 94043-4869

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MAR 0 3 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vidal, et al. :
Application No.: 61/196,263 :
Filed: October 16, 2008 :
Attorney Docket No. R-0015PR :

This a decision on the petition filed February 3, 2009. The petition will be treated under 37 CFR 1.182.

The petition is **dismissed.**

The application was filed on October 16, 2008. On December 3, 2008, the Office of Patent Application Processing mailed the Notice stating that the application had been accorded a filing date of October 16, 2008, but Figure 10, as described in the specification, appeared to have been omitted. The Notice allowed a non-extendable period for reply of two months from its mailing date.

The present petition was filed on February 3, 2009, responsively. Petitioner therein argued that Figure 10 accompanied the original application papers. The petition was not accompanied by evidence to corroborate petitioner's contention that Figure 10 accompanied the original application papers.

The argument has been considered, but is not persuasive. The Patent and Trademark Office (the Office) file is the official record of the papers originally filed in this application. A review of the application file reveals only five sheets of drawings filed on December 16, 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. The fact that petitioner asserts that Figure 10 was among papers originally filed is not more persuasive than the papers shown to have been received by the official file. Further, petitioner did not provide a copy of an itemized Office date-stamped postcard whereby the Office would have acknowledged receiving the drawing and that would serve as *prima facie* evidence that Figure 10 was received on October 16, 2008.

The petition is dismissed.

The application is being directed to the Office of Patent Application Processing with a filing date of October 16, 2008, with five sheets of drawings including Figures 1-9 noted as being filed on that date.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

RONALD J. MEETIN, ATTORNEY AT LAW
210 CENTRAL AVENUE
MOUNTAIN VIEW CA 94043-4869

In re Application of :
Vidal, et al. :
Application No.: 61/196,263 : ON PETITION
Filed: October 16, 2008 :
Attorney Docket No. R-0015PR :

This a decision on the petition filed April 17, 2009. The petition will be treated under 37 CFR 1.182.

The petition is **granted.**

The application was filed on October 16, 2008. On December 3, 2008, the Office of Patent Application Processing mailed the Notice stating that the application had been accorded a filing date of October 16, 2008, but Figure 10, as described in the specification, appeared to have been omitted. The Notice allowed a non-extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.182 was first filed February 3, 2009, and dismissed by a decision mailed March 3, 2009.

The present petition was filed on April 17, 2009. Petitioner again argues that Figure 10 accompanied the original application papers. The petition was accompanied by evidence to corroborate petitioner's contention that Figure 10 accompanied the original application papers. Said evidence consisted of an Office date-stamped postcard whereby the Office acknowledged receipt of six sheets of informal drawings on October 16, 2008.

Upon review of the record, Figure 10 have not been located among the application papers. However, the evidence is convincing that the application papers deposited October 16, 2008, included Figure 10 which was subsequently misplaced by the Office. The application, including Figure 10 as described in the specification was complete on filing and entitled to the presently accorded filing date of October 16, 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 further processing with the presently accorded filing date of October 16, 2008, including Figure 10.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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FEB 18 2009

OFFICE OF PETITIONS

In re Application of
Chandrapati, et al.
Application No. 61/196,415
Deposited: October 17, 2008
Attorney Docket No. 64754US002
For: BIOLOGICAL COMPOSITIONS, ARTICLES AND METHODS FOR MONITORING STERILIZATION PROCESSES

ON PETITION

This is a decision on the petition, filed January 13, 2009, requesting, in effect, that the Office withdraw a Notice of Incomplete Provisional Application, mailed November 13, 2008 and accord the application a filing date of October 17, 2008 with Figures 1 and 2 as part of the originally filed application. The petition will be treated under 37 CFR 1.53(e).

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

The application was deposited on October 17, 2008. On November 13, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Provisional Application (Notice) informing applicants that the application deposited on October 17, 2008 had not been accorded a filing date because it appeared to be missing drawings.

In response to the Notice, petitioners timely filed the present petition. Petitioners request an October 17, 2008 filing date for Figures 1 and 2, and thereby, the application as well, on the basis that the allegedly omitted drawings were filed in the Patent and Trademark Office (PTO) on October 17, 2008 . In support, the petition is accompanied by a declaration of the agent of record who reviewed the application and attests to the fact that the figures were present before depositing it in USPS Express Mail service.

The declaration by Mr. Ersfeld states without equivocation or doubt that he checked the assembled application papers to determine that the application included all intended pages, including the drawings.

The Office file is the official record of what was filed on October 17, 2008. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declaration supplied on January 13, 2009 was made almost 3 months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioners have provided their postcard receipt. It shows that applicants listed "1 Sheets of Drawings" on the postcard. However, the Office annotated the postcard. The annotation states, "The PTO did not receive the following listed item(s): 1 sheet of drawing." Per MPEP 503, the postcard receipt will not serve as *prima facie* evidence of receipt of the 1 sheet of drawing.

Fortunately, there is another avenue of relief available to petitioners. It is noted that the specification filed on October 17, 2008 contains method and composition claims.

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 November 13, 2008 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of October 17, 2008 without drawings.

Pursuant to petitioners' request, the $400.00 petition fee will be credited to deposit account no. 13-3723.

It is not permissible to amend a provisional application. 37 CFR 1.53(c). The 1 sheet of drawings supplied with the instant petition will **not** be processed.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **October 17, 2008** and the mailing of a filing receipt reflecting the October 17, 2008 filing date and for indication that 0 sheets of drawings were filed on October 17, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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
11/892,130	08/20/2007	Eran Gabbai	091502-0109

CONFIRMATION NO. 6998

67801
MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

CONVERSION REQUEST

Date Mailed: 11/14/2008

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 **07/28/2008,** 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 **61/196,692.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,130	08/20/2007	Eran Gabbai	091502-01109	6998

22428 7590 08/30/2008
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER	
ROWAN, KURT C	

ART UNIT	PAPER NUMBER
3643	

MAIL DATE	DELIVERY MODE
08/30/2008	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 11892130 on 11/14/2008

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

MAILED
FROM DIRECTORS OFFICE

AUG 30 2008

TECHNOLOGY CENTER 3600

Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington, DC 20007

In re application of
Eran Gabbai
Application No. 11/892,130
Filed: August 20, 2007
For: METHOD AND APPARATUS FOR RECYCLING CARBON DIOXIDE

DECISION ON PETITION TO CONVERT TO A PROVISIONAL APPLICATION

This is a decision on the petition under 37 CFR 1.53(c)(2) filed July 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)(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.

Teri P. Luu
Quality Assurance Specialist
Patent Technology Center 3600
(571)272-7045

TL/TL: 08/28/08

Copied from 11892130 on 11/14/2008

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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/968,110	12/31/2007	Bjornar HERNES	2688.0090000 (1009.00US)

CONFIRMATION NO. 8264

CONVERSION REQUEST

56074
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000033154288

Date Mailed: 11/18/2008

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 **10/15/2008,** 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 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 **61/196,693.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/029,462	02/11/2008	Nik Bhatt	APLE.P0120

CONFIRMATION NO. 8874

48947
ADELI & TOLLEN, LLP
1875 CENTURY PARK EAST, SUITE 1360
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC000000033154483

Date Mailed: 11/18/2008

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 **06/16/2008,** 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 **61/196,694.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
11/838,050	08/13/2007	Theodore Charles Lamson	83455.0002.D2

CONFIRMATION NO. 6070

81153
STEPTOE & JOHNSON - NEOTRACT
2121 AVENUE OF THE STARS, SUITE 2800
LOS ANGELES, CA 90067

CONVERSION REQUEST

OC000000033154650

Date Mailed: 11/18/2008

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 **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 **61/196,695.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/192,512	08/15/2008	Anthony Imperial	

CONFIRMATION NO. 2869

CONVERSION REQUEST

Anthony Imperial
NextArts
P.O. Box 880418
San Francisco, CA 94188

OC000000033653285

Date Mailed: 12/17/2008

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 **10/16/2008,** 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 **61/196,696.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/192,941	08/15/2008	Anthony Imperial	69440-8001.US01

CONFIRMATION NO. 3789

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

CONVERSION REQUEST

Date Mailed: 12/17/2008

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 **10/16/2008,** 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 **61/196,697.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/118,722	07/07/2008	James D. Dees	00009469

CONFIRMATION NO. 1615

79449
Robert Fuss/Applied Hydrogen Technologies, Inc.
7712 Barkers Bend Dr.
Murrayville, GA 30564

CONVERSION REQUEST

OC000000033695530

Date Mailed: 12/18/2008

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 **11/28/2008,** 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 **61/196,698.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/809,996	06/04/2007	John R. Columbia	4932-072104

CONFIRMATION NO. 1391

28289
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

CONVERSION REQUEST

Date Mailed: 12/31/2008

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 **01/28/2008,** 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 **61/196,699.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/038,924	02/28/2008	Kai Wm. Jansen	2709.0110001

CONFIRMATION NO. 6583

CONVERSION REQUEST

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC00000033864110

Date Mailed: 12/31/2008

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 **10/10/2008,** 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 **61/196,700.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/038,922	02/28/2008	Kai Wm. Jansen	2709.0120001

CONFIRMATION NO. 6579

CONVERSION REQUEST

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000033864903

Date Mailed: 12/31/2008

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 **10/10/2008,** 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 **61/196,701.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/111,329	04/29/2008	Kai Wm. Jansen	EPV 1024

CONFIRMATION NO. 7153

CONVERSION REQUEST

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

OC000000033866555

Date Mailed: 12/31/2008

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 **10/09/2008,** 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 **61/196,702.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/121,946	05/16/2008	Kevin Dill	007131.00195

CONFIRMATION NO. 7828

CONVERSION REQUEST

71733
BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007131
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

OC00000033872022

Date Mailed: 01/01/2009

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 **12/01/2008,** 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 **61/196,705.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/172,189	07/11/2008	HARRY NGUYEN	KEIMR.007A

CONFIRMATION NO. 4429

CONVERSION REQUEST

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000033872259

Date Mailed: 01/01/2009

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 **11/12/2008,** 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 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 **61/196,706.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
12/183,841	07/31/2008	MICHAEL R. NEIDERT	P0021629.01

CONFIRMATION NO. 6307

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

OC000000033872453

Date Mailed: 01/01/2009

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 **10/01/2008,** 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 **61/196,707.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
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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
12/170,576	07/10/2008	Ross G. Krogh	END6117USPSP

CONFIRMATION NO. 1329

27805
THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

CONVERSION REQUEST

OC000000033895501

Date Mailed: 01/02/2009

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 **09/18/2008,** 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 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 **61/196,708.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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
11/121,573	05/04/2005	Ram Bhushan Agrawal	6067-03400

CONFIRMATION NO. 3849

65132
M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

CONVERSION REQUEST

OC00000034640816

Date Mailed: 02/19/2009

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 **11/25/2005,** 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 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 **61/196,709.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JOHN S DILL
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/121,573	05/04/2005	Ram Bhushan Agrawal	6067-03400	3849

65132 7590 02/11/2009

M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER	
LIU, LI	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
02/11/2009	PAPER

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

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

Copied from 11121573 on 02/19/2009

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MEYERTONS, HOOD, KIVLIN, KOWERT, & GOETZEL/
ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TEXAS 78767-0398

In Re Application of :
Ram Bhushan AGRAWAL :
Application Serial No. 11/121,573 :
Filed: May 5, 2005 :
For: **METHOD AND APPARATUS FOR IDENTIFYING HALFTONE REGIONS WITHIN A DIGITAL IMAGE** :

DECISION ON PETITION

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 25, 2005 requests conversion to a provisional application under 37 CFR 1.53(c)(2) and includes the requires fee

The petition is **GRANTED.** The application is being forwarded to the Office of Initial Patent Examination for further processing.

_____/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

Copied from 11121573 on 02/19/2009

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
12/370,240	02/12/2009	William Willett	4110-834U1

CONFIRMATION NO. 5347

570
PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

CONVERSION REQUEST

OC000000034915132

Date Mailed: 03/09/2009

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 **03/06/2009,** 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 **61/196,710.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
11/647,746	12/29/2006	Zheng Xin Dong	IPN-135.2 US

CONFIRMATION NO. 9495

CONVERSION REQUEST

Leon R. Yankwich, Esq.
Yankwich & Associatess, P.C.
201 Broadway
Cambridge, MA 02139

Date Mailed: 03/10/2009

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 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 **61/196,711.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 18 2008

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

Leon R. Yankwich, Esq.
Yankwich & Associatess, P.C.
201 Broadway
Cambridge MA 02139

In re Application of	:
Dong et al.	:
Serial No.: 11/647,746	: CONVERSION TO PROVISIONAL
Filed: December 29, 2006	:
Attorney Docket No.: IPN-135.2 US	:

This is in response to applicants' request, filed December 6, 2007, 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 11647746 on 03/09/2009

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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
12/286,073	09/29/2008	Andrew L. Bender	

CONFIRMATION NO. 4337

CONVERSION REQUEST

Andrew L. Bender
4 Betsy Lane
Ambler, PA 19002

OC000000035508413

Date Mailed: 05/04/2009

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 **03/16/2009,** 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 **61/196,712.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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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
12/250,003	10/13/2008	Nick N. Nguyen	ASP5074USNP/080610

CONFIRMATION NO. 2924

CONVERSION REQUEST

26285
K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

OC000000035508803

Date Mailed: 05/04/2009

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 **02/27/2009,** 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 **61/196,713.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/249,992	10/13/2008	Nick N. Nguyen	ASP5072USNP/080612

CONFIRMATION NO. 2910

CONVERSION REQUEST

26285
K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

OC000000035510837

Date Mailed: 05/04/2009

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 **02/27/2009,** 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 **61/196,714.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/249,984	10/13/2008	Nick N. Nguyen	ASP5073USNP/080611

CONFIRMATION NO. 2900

CONVERSION REQUEST

26285
K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

Date Mailed: 04/15/2009

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 **02/27/2009,** 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 **61/196,715.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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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
12/396,069	03/02/2009	Vincent G. Meillet	221P249US01

CONFIRMATION NO. 5577

23322
IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

CONVERSION REQUEST

OC000000036231976

Date Mailed: 05/29/2009

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 **04/20/2009,** 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 **61/196,716.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/263,415	10/31/2008	Rajan Goyal	3795.1032-000

CONFIRMATION NO. 8103

CONVERSION REQUEST

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

OC000000035447228

Date Mailed: 04/13/2009

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 **11/24/2008,** 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 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 **61/196,717.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/317,851	12/30/2008	Scott Siers	P27370

CONFIRMATION NO. 4859

CONVERSION REQUEST

59796
INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

OC00000035447130

Date Mailed: 04/13/2009

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 **03/09/2009,** 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 **61/196,718.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/347,895	12/31/2008	Robert Dunstan	P27402

CONFIRMATION NO. 1901

CONVERSION REQUEST

59796
INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

OC000000035446991

Date Mailed: 04/13/2009

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 **03/11/2009,** 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 **61/196,719.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/347,566	12/31/2008	John W. Lawton	P184 1070.1

CONFIRMATION NO. 1314

26158
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

CONVERSION REQUEST

OC000000035508688

Date Mailed: 05/04/2009

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 **03/09/2009,** 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 **61/196,720.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/286,094	09/29/2008	Andrew L. Bender	

CONFIRMATION NO. 4307

CONVERSION REQUEST

Andrew L. Bender
4 Betsy Lane
Ambler, PA 19002

OC00000035505768

Date Mailed: 04/15/2009

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 **03/16/2009,** 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 **61/196,721.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/860,509	09/24/2007	David M. Sciarrino	0057-041

CONFIRMATION NO. 6713

63015
HENNEMAN & ASSOCIATES, PLC
714 W. MICHIGAN AVE.
THREE RIVERS, MI 49093

CONVERSION REQUEST

OC000000035483804

Date Mailed: 04/14/2009

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 **07/29/2008,** 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 **61/196,722.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/860,509	09/24/2007	David M. Sciarrino	0057-041	6713

63015 7590 08/30/2008
HENNEMAN & ASSOCIATES, PLC
714 W. MICHIGAN AVE.
THREE RIVERS, MI 49093

EXAMINER	
MEYERS, MATTHEW S	

ART UNIT	PAPER NUMBER
3689	

MAIL DATE	DELIVERY MODE
08/30/2008	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 11860509 on 04/14/2009

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

Henneman & Associates, PLC
714 W. Michigan Avenue
Three Rivers, MI 49093

MAILED
FROM DIRECTORS OFFICE

AUG 30 2008

TECHNOLOGY CENTER 3600

In re application of
David M. Sciarrino et al.
Application No. 11/860,509
Filed: September 24, 2007
For: CLAIM CHART CREATION SYSTEM

DECISION ON PETITION TO CONVERT TO A PROVISIONAL APPLICATION

This is a decision on the petition under 37 CFR 1.53(c)(2) filed July 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)(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.

Teri P. Luu
Quality Assurance Specialist
Patent Technology Center 3600
(571)272-7045

TL/TL: 08/28/08

Copied from 11860509 on 04/14/2009

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
12/354,896	01/16/2009	Aleksandr A. Mokhna	

CONFIRMATION NO. 5636

CONVERSION REQUEST

AIR MAIL
Aleksandr Mokhna
Kalinovaya 28 / 64
Dnepropetrovsk, 49026
UKRAINE

OC000000035535654

Date Mailed: 05/01/2009

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 **03/31/2009,** 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 **61/196,723.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/005,186	12/26/2007	Daphne A. Kontos	PA-6342-RFB

CONFIRMATION NO. 2644

9896
COOK GROUP PATENT OFFICE
P.O. BOX 2269
BLOOMINGTON, IN 47402

CONVERSION REQUEST

OC000000035539313

Date Mailed: 05/11/2009

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 **01/30/2008,** 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 **61/196,724.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/255,321	10/21/2008	Sarah Stoll	128503.0101

CONFIRMATION NO. 3157

CONVERSION REQUEST

27557
BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

OC00000035786173

Date Mailed: 05/05/2009

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 **02/02/2009,** 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 **61/196,725.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/329,483	12/05/2008	Jason A. Ryder	11836-041-888

CONFIRMATION NO. 8867

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

CONVERSION REQUEST

OC000000036230768

Date Mailed: 05/29/2009

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 **01/29/2009,** 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 **61/196,726.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

Jan 23, 2009

In re Application of: RYDER, JASON A.
Serial No.: 12/329483
Filed: 12/05/2008
Title: JET FUEL COMPOSITIONS

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

This is a decision on the petition filed on December 12, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers on December 15, 2008 is evidence that the application was not complete and in condition for examination at the time of filing.

Note that the policy as published in the Federal Register on June 26, 2006 as outlined on 36326, part VIII, conditions for examination, section (D) conditions for examination include a specification in compliance with 37 CFR 1.52 at filing, and section (F) conditions for examination include drawings in compliance with 37 CFR 1.84. As the specification as filed was not in compliance with 37 CFR 1.52 at filing, and the drawings as filed were not in compliance with 37 CFR 1.84 at filing, the application is not considered to be complete under 37 CFR 1.51 and not in condition for examination at the time of filing. Therefore, the application is ineligible for consideration under the accelerated examination program.

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828.

Ehud Gartenberg
Special Program Examiner
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/329,483	12/05/2008	Jason A. Ryder	11836-036-999	8867

20583 7590 04/08/2009

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

EXAMINER	
ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
04/08/2009	PAPER

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

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

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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APR 08 2009

CST

In re application of
Jason Ryder
Serial No. 12/329,483
Filed: December 5, 2008
For: JET FUEL COMPOSITIONS

DECISION
ON PETITION

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed January 29, 2009.

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 Patent Application Processing (OPAP) for conversion to a provisional application.

/ Christine Tierney /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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
12/075,668	03/13/2008	Laxmi C. Gupta	POY0015/US

CONFIRMATION NO. 3723

CONVERSION REQUEST

33072
KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

OC000000035784203

Date Mailed: 05/04/2009

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 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 **61/196,727.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/075,668	03/13/2008	Laxmi C. Gupta	POY0015/US	3723

33072 7590 04/28/2009

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

EXAMINER	
TAYLOR II, JAMES W	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
04/28/2009	PAPER

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

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

Copied from 12075668 on 05/13/2009

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

4/28/09

CST

In re application of
Laxmi C. Gupta et al
Serial No. 12/075,668
Filed: March 13, 2008
For: FIRE RETARDANT COATINGS AND BODIES, AND METHODS OF USE

DECISION ON PETITION

This is a decision on the PETITION TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed April 16, 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 Patent Application Processing (OPAP) for conversion to a provisional application.

It is noted that an office action was mailed on January 29, 2009, after the petition to convert the above-identified application to a provisional application was filed. This office action will be vacated. No response to the office action of January 29, 2009 is required.

/ Christine Tierney /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 12075668 on 05/13/2009

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/429,829	04/24/2009	Jukka REUNAMAKI	NC68996US (1004289-413US)

CONFIRMATION NO. 1832

85775
Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York, NY 10281-2101

CONVERSION REQUEST

Date Mailed: 05/13/2009

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 **05/06/2009,** 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 **61/196,728.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/322,528	02/03/2009	Clint Howle	018251

CONFIRMATION NO. 2057

CONVERSION REQUEST

KEISLING PIEPER & SCOTT PLC
One Steele Plaza
Suite 340
3739 Steele Blvd.
Fayetteville, AR 72703

Date Mailed: 05/08/2009

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 **04/20/2009,** 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 **61/196,729.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/334,684	12/15/2008	Hung-I Chen	251314-6960

CONFIRMATION NO. 8718

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

CONVERSION REQUEST

Date Mailed: 05/14/2009

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 **04/17/2009,** 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 **61/196,730.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
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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
12/362,893	01/30/2009	William T. Donofrio	P0034051.00/1111-114US01

CONFIRMATION NO. 1965

80584
Medtronic, Inc.
710 Medtronic Parkway
Minneapolis, MN 55432

CONVERSION REQUEST

OC00000036207977

Date Mailed: 05/29/2009

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 **04/29/2009,** 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 **61/196,731.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/197,889	08/25/2008	William H. Pitcock JR.	311589.104 A

CONFIRMATION NO. 3152

CONVERSION REQUEST

36536
WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS, TN 38120-4367

OC000000036278412

Date Mailed: 06/15/2009

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 **05/14/2009,** 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 **61/196,732.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/353,464	01/14/2009	Robert Blanchard	SONY-50X9187

CONFIRMATION NO. 2889

45589
SONY C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

CONVERSION REQUEST

Date Mailed: 07/06/2009

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 **03/03/2009,** 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 **61/196,733.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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, VA 22313-1450
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Jose Garcia
SONY C/O MURABITO, HAO & BARNES LLP
Two North Market Street
Third Floor
San Jose CA 95113

MAILED

JUL 09 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
Blanchard et al.
Application No. 12/353,464 (61/196733)
Filed: January 14, 2009
For: SYSTEM AND METHOD FOR REMOTE CONTROL BASED CUSTOMIZATION

DECISION ON PETITION UNDER 37 C.F.R. § 1.53 (C) (2)

This is a decision on the petition for conversion to a provisional application under 37 CFR 1.53(c)(2).

The petition filed on March 03, 2009 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)-(iv).

The petition is **GRANTED**. The application is being forwarded to the Office of Patent Processing Services (OPPS) (formerly Office of Initial Patent Examination, OIPE) for further processing.

Any inquiry concerning this decision should be directed to Christopher Grant at (571) 272-7294.

Christopher Grant
WorkGroup QAS
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/135,086	06/06/2008	Robert Charles Ledzius	59305-8102.US01

CONFIRMATION NO. 3051

79083
Perkins Cole LLP
P.O. Box 1208
SEATTLE, WA 98111-1208

CONVERSION REQUEST

Date Mailed: 06/10/2009

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 **06/04/2009,** 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 **61/196,734.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/390,431	02/21/2009	Eran Alfonta	

CONFIRMATION NO. 5095

CONVERSION REQUEST

35965
DAVID HONG, LAW OFFICE OF DAVID HONG
P.O. BOX 2111
SANTA CLARITA, CA 91386

OC000000036783555

Date Mailed: 07/09/2009

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 **06/08/2009,** 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 **61/196,735.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/437,556	05/08/2009	Byron Lovell Williams	

CONFIRMATION NO. 7750

CONVERSION REQUEST

Byron L. Williams
4012 Kite Meadow Dr.
Plano, TX 75074

OC000000037002430

Date Mailed: 07/20/2009

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 **06/01/2009,** 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 **61/196,736.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/464,792	05/12/2009	Jeremiah Sawyer Sullivan	21SV-148611

CONFIRMATION NO. 2279

30764
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

CONVERSION REQUEST

Date Mailed: 07/09/2009

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 **06/12/2009,** 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 **61/196,737.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/006,258	12/31/2007	Paul Unbehagen	18823ROUS01U

CONFIRMATION NO. 5774

CONVERSION REQUEST

34645
Anderson Gorecki & Manaras, LLP
Attn: John C. Gorecki
P.O BOX 553
CARLISLE, MA 01741

OC000000037101248

Date Mailed: 07/30/2009

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 **61/196,738.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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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
12/006,256	12/31/2007	David Allan	18738ROUS01U

CONFIRMATION NO. 5757

34645
Anderson Gorecki & Manaras, LLP
Attn: John C. Gorecki
P.O BOX 553
CARLISLE, MA 01741

CONVERSION REQUEST

OC000000037101218

Date Mailed: 07/28/2009

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 **04/15/2008,** 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 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 **61/196,739.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/413,600	03/30/2009	Eugene Blount	

CONFIRMATION NO. 9414

CONVERSION REQUEST

Eugene Blount
Tracy Elaine Blount
2519 Mapleview Ct SE
Kentwood, MI 49508

OC000000036846470

Date Mailed: 07/09/2009

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 **06/18/2009,** 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 **61/196,740.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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GEORGE MOSER - EDC AUTOMOTIVE
3199 LAPEER ROAD
AUBURN HILLS MI 48326

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NOV 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Moser et al. :
Application Number: 61/197268 :
Filing Date: 10/27/2008 : ON PETITION
For: HEAT EXCHANGER :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on September 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.[2]

The above-identified application became abandoned on January 13, 2009, for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed on November 12, 2008, which set a two (2)-month shortened period for reply. Extensions of time were available under 37 CFR 1.136(a). Notice of Abandonment was mailed on July 22, 2009.

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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)).

[2] Pursuant to 35 U.S.C. 112(b)(5), 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.

The required fees will be charged to counsel's deposit account, as authorized in the paper filed with 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.[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 is referred to the Office of Patent Application Processing for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: STEPHEN T. OLSON
HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE, SUITE 200
TROY MI 48098

---

[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).

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Mansun Law, et al. : DECISION ON
Application No. 61/197,292 : PETITION
Filed: October 24, 2008 :
Attorney Docket No. 1361.094PRV :

This is in response to the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A PROVISIONAL APPLICATION," filed January 16, 2009. Petitioner requests that the Office include in the above-identified provisional application pages 80-151 of the specification which was omitted from the application on filing.

Application papers in the above-identified provisional application were filed on October 24, 2008. However, on November 17, 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, pages 80-151 of 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 assert that the application as filed included all pages of the specification and supplies a complete copy of the specification, including pages 80-151. In effect, applicants request that the application be amended to include omitted pages 80-151.

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, Patent attorney Robin A. Chadwick states that "Applicants believe that the entire specification was in fact submitted with the application" and provides a declaration of Candis Buending, paralegal, swearing under penalty of perjury, that she "prepared a photocopy of the entire application, including. . . specification pages 1-151. . . fastened together with return postcard. . ." in accordance with her usual procedure and did not find any portion of the original specification had been omitted after mailing. In further support, petitioner has included a copy an itemized postcard receipt.

A review of petitioner's postcard receipt reveals that the papers filed therewith were date stamped as received in the USPTO on October 24, 2008 and assigned application No. 61/197,292. Further, the postcard includes an annotation that "The PTO did not receive the following listed item(s) 71 pages of specification."

Petitioner's arguments have been considered, but not found persuasive that all the pages of the specification as alleged were filed as a part of the original application papers. Papers

not present in the application file are not considered present in the application absent convincing evidence to the contrary (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 image file wrapper (IFW) is the official record of the papers originally filed in this application. A review of the IFW of the application reveals that pages 80-151 of the specification are not among the papers received on October 24, 2008. In fact the IFW includes a paper prepared by USPTO staff stating that upon the scanning of the application, the application was deficient, in that, "NOT REC'VD 71, Pages of spec." Applicants alleging that a paper was filed in the USPTO and later misplace has the burden of proving the allegation by a preponderance of evidence. However, the evidence submitted is not more persuasive than the record of what was filed as shown by the official file.

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 pages 80-151, filed January 16, 2009 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 October 24, 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) 272-3204.

Sherry D. Brinkley

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
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 23 2010

OFFICE OF PETITIONS

In re Application of :
Law et al. :
Application Number: 61/197292 : ON PETITION
Filing Date: 10/24/2008 :
Attorney Docket Number: :
1361.094PRV :

This is a decision on the renewed petition filed on May 26, 2009, requesting that the above-identified provisional application, including Pages 80-151 of the specification, be accorded a filing date of October 24, 2008.

The Office apologizes for the delay in responding to the present petition.

The petition is again **DISMISSED**.

On October 24, 2008, the application was filed. On November 17, 2008, the Office of Patent Application Processing mailed a Notice of Omitted Item(s) in a Provisional Application, stating that Pages 80-151 of the specification (description and claims), appeared to have been omitted from the application.

On January 16, 2009, a petition in response to the Notice of Omitted Item(s) was filed. On March 26, 2009, the petition was dismissed.

On May 26, 2009, the subject renewed petition was filed. Petitioners again assert that the application as filed included Pages 80-151 of the specification.

Petitioners' arguments have been considered, but are not persuasive.

The U.S. Patent and Trademark Office (Office) Image File Wrapper (IFW) is the official record of the papers originally filed in this application. A review of the papers originally filed

reveals that two (2) pages of provisional application cover sheet, 80 pages of specification (1 cover page and pages 1 to 79 of written description), and 10 sheets of drawings were among the application papers received on October 24, 2008. No Pages 80-151 of the specification are located among the papers received in the Office on October 24, 2008.

Petitioners cite, in their renewed petition, an itemized postcard receipt as evidence in support of the allegation that 151 pages of specification were filed in the USPTO on October 24, 2008. Petitioners acknowledge that the postcard was annotated to indicate that the PTO did not receive 71 pages of specification, but assert, that the Notation that 71 pages were missing is "no better proof than Applicants' postcard which states that 151 pages of the application were mailed to the Patent Office on October 24, 2008."

Petitioners further cite 5 USC § 556(d), which states, in pertinent part, that "the proponent of a rule or order has the burden of proof." Petitioners argue that based on the cited statute, the USPTO, not the applicant, has the burden of proving that Pages 80-151 were not filed on October 24, 2008.

Petitioners' argument has been considered, but is not persuasive. 5 USC § 556(d) pertains to hearings required by 5 USC §§ 553 and 554 in which evidence is taken before one or more administrative law judges. *See* 5 USC §§ 556(a) and (b). The subject matter is not a hearing involving one or more administrative law judges, but rather a petition to the Director of the United States Patent and Trademark Office concerning the papers filed in the USPTO on October 24, 2008. Accordingly, the provisions 5 USC § 556(d) are not applicable to the subject petition.

35 USC 111(b)(1), states, in pertinent part, that 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.

Further, 37 CFR 1.53(c) sets forth, in pertinent part, that the filing date of a provisional application is the date on which a specification and a drawing are filed in the Patent and Trademark Office, and that 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. In this regard, it is undisputed that a complete application for filing date purposes was present on October 24, 2008. As such, applicant has the burden of proof of showing that any pages that appeared to have been omitted were in fact filed on October 24, 2008. Simply put, the burden is on petitioners, not the Office, to prove by a preponderance of evidence that Pages 80-151 of the specification were received in the USPTO on that October 24, 2008.

MPEP 503, states, in pertinent part:

> The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.
>
> The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.
>
> Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

As such, the USPTO has set forth a procedure for notifying applicants what papers were received in the Office on a given date.

With regards to petitioner's assertion that "the so-called 'omitted' pages were mostly lost by someone at some location within the Patent Office along the way from opening the envelope containing Applicants' specification in some mailroom location to scanning the application into the Patent Office database," applicants' assertion is mere speculation and is simply not supported by the showing of record.

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. 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.

Petitioners should note that the itemized postcard, once stamped by the USPTO and annotated, if necessary, provides evidence of what documents were actually *received* in the USPTO as opposed to what documents petitioner intended to send to the USPTO. In this case, the showing of record is that while petitioners intended to file 151 pages of specification in the USPTO, the application papers that were received on October 24, 2008, omitted Pages 80-151.

It is noted that petitioners have also provided declarations of facts by petitioner's registered patent practitioner, Wendy Thai, and by counsel's paralegal, Candis Buending, asserting that 151 pages of specification were filed on October 24, 2008.

The declarations of attorney Thai and Ms. Buending has been considered, but are not persuasive. Both declarations were made over six (6) months after the events in question, and recite the declarants' 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

affiants' memory, particularly in view of the fact that affiants prepared and mailed similar papers to the Office on a routine, daily basis.

Lastly, petitioners assert that the application was sent to the USPTO via USPS "Express Mail Post Office to Addressee" ("Express Mail") Service, and that no pages were missing when the application was deposited in "Express Mail".

Petitioners' argument is not well taken, however as an Express Mail mailing label is not persuasive evidence of the receipt of Pages 80-151 of the specification on October 24, 2008, because the other application papers filed by Express Mail were received on October 24, 2008. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence.[1] A petition under 37 CFR 1.10 is therefore inappropriate in the present case. A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

In summary, the showing of record is that petitioners intended to file 81 pages, numbered 80-151, of specification on October 24, 2008, but that no Pages 80-151 were received in the USPTO on that date. While it is unfortunate that the application as filed did not include Pages 80-151, the fact remains that petitioner has not provided persuasive evidence that the Pages 80-151 were among the papers filed in the Office on October 24, 2008. As such, the application, including pages 80-151, is not entitled to a filing date of October 24, 2008.

As the Notice correctly stated that Pages 80-151 appeared to have been omitted from the application, the petition was not necessitated by Office error and the petition fee will not be refunded.

The application will be processed using only the application papers present on filing.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.[2]

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[1] MPEP 513.

[2] 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 FAX: (571) 273-8300
Attn: Office of Petitions

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

A reply may also be filed via the EFS-Web system of the USPTO.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of October 24, 2008, using only the application papers filed on that date.

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

Commissioner for Patents
United States Patent and Trademark Office
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JAN 28 2010

OFFICE OF PETITIONS

HUFFMAN LAW GROUP PC
1900 MESA AVE
COLORADO SPRINGS CO 80906

In re Application of :
Hirschfeld, et al. :
Application No. 61/197,852 : ON PETITION
Filed: October 31, 2008 :
Attorney Docket No. ZEHICLE_001 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, and the petition to revive under 37 CFR 1.137(b), both filed on October 9, 2009.

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

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" or "Renewed Petition under 37 CFR 1.137(b)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts mailed December 12, 2008. This Office action set an extendable period for reply of two (2) months for applicant to correct deficiencies related to a CD submission. No reply having been received, the application became abandoned on February 13, 2009. The Office mailed a Notice of Abandonment on August 25, 2009.

Petition Under 37 CFR 1.181:

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]

Where a petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. In that case, a petitioner must explain his system for keeping track of patent matters; where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc.

With the instant petition, petitioner has stated that he did not receive the Notice to File Missing Parts, and that he searched his file jacket and did not find the Notice. However, petitioner has not submitted a docket report evidencing non-receipt of the Notice, nor has petitioner explained his system for keeping track of correspondence, reminding himself of due dates, etc.

Petition Under 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); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

The instant petition does meet requirement (1) above.

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

A review of the application reveals that the CD submitted on September 28, 2009 was not proper.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-383

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OFFICE OF PETITIONS

In re Application of	:	
Basi et al.	:	
Application Number: 61/197878	:	DECISION ON PETITION
Filing Date: 10/30/2008	:	
Attorney Docket Number: 15270C-001000US	:	

Receipt is acknowledged of the "PETITION IN RESPONSE TO NOTICE OF MISSING PARTS - OMITTED ITEM," filed on February 3, 2009, concerning the United States Patent and Trademark Office's handling of the above-referenced patent application.

The petition is **DISMISSED**.

On October 30, 2008, the application was filed. On December 4, 2008, however, the Office of Patent Application Processing mailed a "Notice to File Missing Parts of Provisional Application " stating, *inter alia*, that the application had been accorded a filing date of October 30, 2008, but that Figure 12 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, the present petition was filed. Petitioners explain that Figure 12 was not missing on October 30, 2008. Instead, petitioners assert, the application as filed included a drawing sheet containing a drawing figure marked Figure 13, which was actually intended to be labeled Figure 12. Petitioners further assert that two replacement sheets, re-labeling Figures 13 and 14 as Figures 12 and 13, respectively, have been provided.

It is obvious from the petition that no drawing was actually missing on October 30, 2008. Rather, drawing Figure 12 was simply mislabeled as a result of the applicants' filing error. However, the "Notice" mailed on December 4, 2008, was correct in stating that Figure 12 described in the specification appeared to

have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

As the present petition was not necessitated by an error on the part of the Office, the petition fee will not be refunded.

The application will be processed using only the application papers filed on October 30, 2008. The copy of the drawing sheet(s) supplied with the present petition on February 3, 2009, will not be used for processing, but will be retained in the application file.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of October 30, 2008, using only the application papers filed on that date.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOHAMED ELGAFI
1343 S. GERTRUDA AVE.
REDONDO BEACH CA 90277

MAILED

APR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Mohamed ELGAFI	:	
Application No. 61/198,732	:	DECISION ON PETITION
Filed: November 07, 2008	:	
Attorney Docket No.	:	

This is in response to the communication, filed October 14, 2009 and resubmitted October 15, 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 December 22, 2008, the Office mailed a Notice to File Missing Parts Office action, which set a two (2) month shortened statutory period to reply. The application became abandoned on February 23, 2009, for failure to submit a timely response to the December 22, 2008 Office action. On September 03, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to payment of the requested fees. Specifically, petitioner states that he called the Office and paid the amount requested.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the Office records indicates that the required fees were **not** paid.

In the present petition, petitioner did not submit documentary evidence to the USPTO to show that he did make payment of the required fees. Therefore, the petition to withdraw the holding of abandonment 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 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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Betty S. Chew
949 Cantwell Ln.
Corpus Christi TX 78407

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Chew, et al.
Application No. 61/199,623
Filed: November 19, 2008
Attorney Docket No. N/A

ON PETITION

This is in response to the communication, filed September 2, 2009, which is being treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On December 8, 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 February 9, 2009, for failure to submit a timely response to the Notice. On August 18, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the December 8, 2008 Notice. Specifically, petitioners state that they did not receive the December 8, 2008 Notice and therefore, did not know that they owed more money.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the December 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 petitioners are pro-se applicants, the Office understands that petitioners may not keep a formal docket record system for their correspondence. Nevertheless, petitioners must provide some sort of showing explaining the manner in which petitioners receive mail from the USPTO, maintain files for patent matters, and treat mail received for such matters. Specifically, petitioners must explain the system for keeping track of patent matters - where petitioners keep

the correspondence; where they write down due dates; how they know replies are due, etc. In essence, petitioners must explain how they remind themselves of response due dates and show that the due date for the December 8, 2008 Notice, was not entered into that system. Petitioners should include any available documentary evidence of the mail received, covering a reasonable period after December 8, 2008, to demonstrate non-receipt of the December 8, 2008 Notice. Petitioners 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 petitioners would have entered the receipt date of the Office action had petitioners received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioners must include a statement from themselves, 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 December 8, 2008 Notice was not found. Lastly, petitioners must state that they were, in fact, residing at the correspondence address of record for a reasonable time after December 8, 2008; the period when they would have received the December 8, 2008 Notice.

In the present petition, petitioners did not submit any statements, documentary evidence, or an explanation of their method for tracking due dates for filing responses to communications from the USPTO to show they did not receive the December 8, 2008 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the December 8, 2008 Notice does *not* accompany this decision because petitioners state that Terri Williams has already faxed them a copy.

ALTERNATIVE VENUE

Petitioners are 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 petitioners' convenience. If petitioners desire to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioners must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioners may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioners are 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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior 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.

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

Betty S. Chew
949 Cantwell Ln.
Corpus Christi TX 78407

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NOV 2 0 2009

OFFICE OF PETITIONS

In re Application of
Chew, et al.
Application No. 61/199,623
Filed: November 19, 2008
Attorney Docket No. N/A

ON PETITION

This is in response to the communication, filed October 20, 2009, which is being treated as a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

The petition is dismissed and the merits of the petition will not be addressed because the correspondence 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 was signed by Betty S. Chew, if the signature on the facsimile transmittal sheet is construed as part of the petition. The petition itself is not signed. Betty S. Chew has not provided an attorney/agent registration number. Betty S. Chew has not shown that she is an authorized representative of an assignee who has right to take action. It is noted that Betty S. Chew is one of two joint inventors.

In short, Betty S. Chew has not established that she is permitted to file amendments and other papers in this application on her own.

In any reconsideration petition, petitioner is encouraged to either (a) submit Betty S. Chew's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee 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 Betty S. Chew and in

this manner, the signature on instant petition will be ratified); or (c) submit a petition signed by both joint inventors.

Petitioners are encouraged to revisit the September 28, 2009 decision on petition for guidance as to what **evidence** the Office must be provided with in order to grant a petition to withdraw the holding of abandonment.

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

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Alexandria, VA 22313-1450
www.uspto.gov

ALAN ADEN
1655 JACKSON ST.
LONGWOOD FL 32750

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Aden, et al. :
Application No. 61/199,687 : DECISION
Filed/Deposited: 19 November, 2008 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 28 August, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

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

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees, surcharge) mailed on 10 December, 2008, with reply due absent extension of time on or before 10 February, 2009.

The application went abandoned by operation of law after midnight 10 February, 2009.

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

On 28 August, 2009, Petitioner (co-inventor Aden) filed a petition pursuant to 37 C.F.R. §1.181—it is noted that the petition is improper in that it was not signed by all applicants (in the absence of the appointment of a representative agent/attorney) and therefore cannot be considered substantively. Were the petition considered in substance, it is noted that Petitioner averred timely filing of fees immediately after the deposit of the application. As outlined in the three (3) paragraphs above, the fees submitted were: (a) not submitted on deposit of the application, and (b) insufficient when submitted. Thus, when the Notice of Missing Parts (fees, surcharge) was mailed, it was to that mailing that Petitioner failed to reply timely and properly. As a result, the application went abandoned by operation of law. If as it appears, Petitioner cannot make the showing (as outlined below), Petitioner's only alternative is to seek revival of the application—and Petitioner is cautioned that a failure to do so timely may be considered indicia of delay that is other than unintentional. A form is enclosed for the information/convenience of Petitioner—it must be signed by all applicants—and the requirements of the petition are the petition (form), fee (always consult the office website for the then-current and applicable fees), reply (the fees, surcharge outlined in the Notice of Missing Parts, and contrary to the statement of Petitioner not evident/present with the instant petition), statement of unintentional delay (in the form), and a terminal disclaimer and fee where applicable (e.g., design applications). To aver properly a timely reply, Petitioner must evidence, *inter alia*, a date-stamped receipt card (MPEP §503) or an Office EFS receipt or FAX Receipt Acknowledgement setting forth the date, time and number of pages received by the Office (see discussion below). Thus, while Petitioner suggests that he submitted a paper, there is no showing of receipt thereof by the Office. On any renewed petition, Petitioner must address this deficiency—or seek revival pursuant to 37 C.F.R. §1.137. (The regulations may be viewed at the Office website (www.uspto.gov ; http://www.uspto.gov/web/offices/pac/mpep/mpep.htm ; http://www.uspto.gov/web/offices/pac/mpep/documents/appxr.htm).

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

***

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

petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

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

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

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

***

As indicated above, Petitioner failed to satisfy this burden.

[1] *See*: MPEP §711.03(c) (I)(B).

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

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

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

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

STATUTES, REGULATIONS

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

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

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

[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).

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

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

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
61/199,687	11/19/2008	Alan Arthur Aden	

CONFIRMATION NO. 8402

Alan Aden
1655 Jackson St.
Longwood, FL 32750

FORMALITIES LETTER

Date Mailed: 12/10/2008

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 insufficient.
  Applicant must submit ***$10*** *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 **$35** for a small entity
- **$10** 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.

/nprasasouk/

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
61/199,687	11/19/2008	Alan Arthur Aden	

CONFIRMATION NO. 8402

Alan Aden
1655 Jackson St.
Longwood, FL 32750

ABANDONMENT/TERMINATION LETTER

Date Mailed: 08/18/2009

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 on12/10/2008.

- 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.

/nnguyen/

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

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
Behzad Imani :
Application No. 61/199,769 : DECISION ON PETITION
Filing Date: November 20, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisonal Application (Notice), mailed December 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) 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.

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
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MAY 12 2010

OFFICE OF PETITIONS

LAW OFFICE OF ROBERT C. KLINGER
2591 DALLAS PARKWAY
SUITE 300
FRISCO TX 75034

In re Application of :
Timofeev et al. :
Application Number: 61/199840 : DECISION DISMISSING PETITION
Filing Date: 11/20/2008 :
Attorney Docket Number: :
CommScope 001 :

This is a decision in reference to the paper filed on January 11, 2010, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 19, 2008, rather than the currently-accorded filing date of November 20, 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.

Petitioners allege that the application was deposited in "Express Mail Post Office to Addressee" service on November 19, 2008. A copy of Express Mail Customer Label No. EH527274506US, showing a "date in" of November 19, 2008, has been provided.

37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition lacks item (2)

In regards to item (2), a search of the official file reveals that petitioner failed to place the Express Mail label number on the originally filed specification and claims and transmittal sheet. Any renewed petition should identify where the Express Mail label number can be found in the originally-filed application papers.

The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the USPTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. Where no Express Mail label number is identified on a paper, the USPTO has no way of independently associating the paper with any particular Express Mail receipt.

The difficulty caused by an applicant's failure to place an Express Mail label number on a paper is clearly illustrated by this case. Since no Express Mail label number was placed on the application papers prior to mailing, the USPTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the application was filed on November 19, 2008.

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

A reply may also be filed via EFS-Web.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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.

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

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Yu et al. : DECISION ON
Application No. 61/200,061 : PETITION
Filed: November 24, 2008 :
Attorney Docket No. 4910-53P :

This is in response to the "PETITION TO ACCORD FILING DATE TO PROVISIONAL APPLICATION" filed March 13, 2009, requesting that the above-identified provisional application be accorded a filing date of November 24, 2008.

Application papers in the above-identified provisional application were deposited on November 24, 2008. However, on January 15, 2008, the Office sent a NOTICE OF OMITTED ITEMS IN A PROVISIONAL APPLICATION, notifying applicants that the application papers had been accorded a filing date; however, Figures 3 and 4 described in the specification appeared to have been omitted from the application.

Petitioners timely responded with the instant petition (and petition fee). Petitioners contend that the provisional application does not omit any figures, and in fact, as filed, contains Figures 3 and 4 in Appendix A, which is part of the application.

A reveal of the application as filed reveals that it included Appendix A, and that Appendix A, included Figures 3 and 4. Thus, it is concluded that the drawings were present in the provisional application upon filing. However, this was separate from drawing figures 1 and 2 which were set forth appropriately on a drawing sheet, consistent with the brief description of the

drawings. Whereas, figures 3 and 4 were intertwined in the text of the appendix thus, obscuring their identification as figures 3 and 4. The presence of figures 3 and 4 in the appendix led the Office to properly issue a Notice of Omitted Item(s). The figures did appear to be omitted.

Accordingly, the petition is **GRANTED**.

However, as the petition was not necessitated by Office error but by the manner in which applicants presented figures 3 and 4 to the Office. Thus, the request to refund the fee is denied.

This provisional application is being forwarded to the Office of Patent Application Processing for:

- further processing with a filing date of November 24, 2008, using the application papers received in the Office and presently accorded that date; and

- correction of Office records, as appropriate, to indicate that figures 3 and 4 were present in the application on filing, albeit in the appendix.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SENSATA TECHNOLOGIES, INC.
529 PLEASANT STREET, MS B-1
ATTLEBORO MA 02703

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Andrews, et al. :
Application No. 61/200,648 : DECISION
Filed/Deposited: 2 December, 2008 :
Attorney Docket No. A42694 :

This is a decision on the petition filed on 8 January, 2009, under 37 C.F.R. §1.53, requesting amendment of the instant application to include previously omitted drawing FIGS. 6 and 7 (by substitution of a new set of drawings) described in the specification, and thereby to obtain a filing date of 2 December, 2008, for FIGS. 6 and 7 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 2 December, 2008.

On 15 December, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Omitted Items, to wit: FIGS. 6 and 7 described in the specification. Thus, the application was accorded a filing date, but without the drawing figures in question.

OPAP indicated that Petitioner might:

- contend via petition that drawings 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 drawings; 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 8 January, 2009, Petitioner submitted the instant 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 FIGS. 6 and 7 described in the specification were not present on deposit.

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 2 December, 2008.
- The Office record reflects that the drawing FIGS. 6 and 7 described in the specification were missing on deposit.

Petitioner acknowledges that on deposit the drawing FIGS. 6 and 7 were omitted in error.

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 FIGS. 6 and 7 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 15 December, 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 2 December, 2008, without drawing FIGS. 6 and 7 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of
Frank Roese et al
Application No. 61/200,654
Filed: December 1, 2008
Attorney Docket No. AIRBUS 3.8-357

DECISION GRANTING
PETITION

This is a decision on the petition, filed December 29, 2008, requesting that the above-identified application be accorded a filing date of December 1, 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 December 1, 2008. In support, the petition is accompanied by a copy of Express Mail receipt No. EM308721656US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 1, 2008.

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 December 1, 2008.

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

This application file is being referred to the Office of Patent Application Processing (OPAP)for pre-examination processing. A corrected filing receipt with the filing date of **December 1, 2008** was mailed on January 7, 2009.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IOBRIDGE CORPORATION
2134 SW 14TH ST
GAINESVILLE FL 32608

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DEC 10 2009

OFFICE OF PETITIONS

In re Application of :
Winters, et al. :
Application No. 61/200,692 : DECISION
Filed/Deposited: 2 December, 2008 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 16 September, 2009, 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 **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.

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 and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

It appears that Petitioner has not satisfied the signature requirements (in the absence of a power of attorney/registered practitioner, all Applicants must sign papers submitted) of the Rules of Practice (*see*: 37 C.F.R. §1.33, §1.41(b); MPEP §714.01, §714.01(a)).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees, surcharge) mailed on 17 December, 2008, with reply due absent extension of time on or before 17 February, 2009.

The application went abandoned by operation of law after midnight 17 February, 2009.

The Office mailed a Notice of Abandonment on 31 August, 2009.

On 16 September, 2009, Petitioner/Applicant Winters filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, and including therewith a reply (fees, surcharge), and made the statement of unintentional delay. However, there Applicants herein are Winters, Scharter and Park, 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.")

This must be addressed on any renewed petition.

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

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

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

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).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant 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

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

---

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SMITH MOORE LEATHERWOOD LLP
P.O. BOX 21927
GREENSBORO NC 27420

MAILED

MAR 05 2010

OFFICE OF PETITIONS

In re Application of :
Winters, et al. :
Application No. 61/200,692 : DECISION
Filed/Deposited: 2 December, 2008 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 29 January, 2010, supplemented on 3 March, 2010, 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 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 and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees, surcharge) mailed on 17 December, 2008, with reply due absent extension of time on or before 17 February, 2009.

The application went abandoned by operation of law after midnight 17 February, 2009.

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On 16 September, 2009, Petitioner/Applicant Winters filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, and including therewith a reply (fees, surcharge), and made the statement of unintentional delay. However, there Applicants herein are Winters, Scharter and Park, 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.") The petition was dismissed on 10 December, 2009.

On 29 January, 2010, Petitioner resubmitted the petition (supplemented with a power of attorney and certificate pursuant to 37 C.F.R. §3.73(b) on 3 March, 2010), and pointed to the prior filed fee, reply and 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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

STATUTES, REGULATIONS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

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

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

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter.

As to Allegations of
Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

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

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

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

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

Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] 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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Synageva BioPharma Corp.
111 RIVERBEND ROAD
ATHENS GA 30605

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Yesland, et al. :
Application No. 61/200,723 :
Filed: December 1, 2008 :
Attorney Docket No. AVI-068P :

DECISION GRANTING PETITION

This is a decision on the petition, filed March 16, 2009, requesting that the above-identified application be accorded a filing date of December 1, 2008, rather than the presently accorded date of December 3, 2008. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioners allege that the application was deposited in Express Mail Service on December 1, 2008. In support, the petition is accompanied by a copy of Express Mail receipt No. EV934858733US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December1, 2008.

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 December 1, 2008.

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

This application file is being referred to the Office of Patent Application Processing for correction of the filing date to **December 1, 2008** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ABBOTT BIORESEARCH
100 RESEARCH DRIVE
WORCESTER MA 01605-4314

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MAY 21 2009

OFFICE OF PETITIONS

In re Application of :
Tariq Ghayur :
Application Number: 61/200877 : ON PETITION
Filed: December 4, 2008 :
Attorney Docket Number: :
9380.US.L5

This is a decision on the petition filed on April 14, 2009, 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 December 4, 2008.

The petition is **GRANTED**.

The application was filed on December 4, 2008, without drawings. Accordingly, on January 16, 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 had been deposited without drawings.

On April 14, 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 January 16, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of December 4, 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.[1]

The application is being referred to the Office of Patent Application Processing for correction of the filing date to December 4, 2008.

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

[1] As the Notice of Incomplete Provisional Application mailed on January 16, 2009 did not provide an extendable time period, the extension of time fee filed on April 14, 2009 will also be refunded.

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of :
Riscoe et al. :
Application No. 61/201,082 : ON PETITION
Filed: December 5, 2008 :
Attorney Docket No. 899-82040-01 :

This is a decision on the petition filed February 9, 2009, requesting that the above-identified application be accorded a filing date of December 5, 2008, rather than the presently accorded date of December 4, 2008. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the later filing date on the basis that the application was purportedly deposited with Express Mail Service on December 5, 2008, pursuant to 37 CFR 1.10. The copy of the Express Mail label No. EV514214486US bears a handwritten "date-in" of "12-4-08." 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 December 5, 2008. The same Express Mail receipt number appears on the original "Provisional Application Cover Sheet." Additionally, applicant has submitted a copy of the Express Mail Corporate Account Mailing Statement, showing the date the petitioner was charged for Express Mail label No. EV514214486US as "12/05/08."

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on December 5, 2008 at 5:43 p.m. at the Portland, OR USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on December 5, 2008. Accordingly, the instant application is entitled to a filing date of December 5, 2008 and has been so accorded.

The petition is **GRANTED**.

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

This matter is being referred to the Office of Patent Application Processing (OPAP) for further **processing with a filing date of December 5, 2008, along with a corrected filing receipt.**

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
220 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02139

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Klaus Seuwen :
Application No. 61/201,326 : ON PETITION
Filed: December 9, 2008 :
Attorney Docket No. 52994-US-PSP :

This is a decision on the petition under 37 CFR 1.53(e) filed on February 26, 2009, requesting that the Office accord the above-identified provisional application a filing date of December 9, 2008.

On December 9, 2008, applicants deposited the above-identified provisional application without drawings. On January 9, 2009, 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.

By the instant petition, petitioner states that the drawings are not necessary to understand the invention claimed.

A review of the provisional application papers deposited on December 9, 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 December 9, 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 December 9, 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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JOHN R. BENEFIEL
525 LEWIS STREET
BIRMINGHAM, MI 48009

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DEC 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Cotter et al.	:	
Application No. 61/201,343	:	DECISION ON PETITION
Filed: December 9, 2008	:	
Attorney Docket No. HOD-145	:	

This is a decision on the petition, filed October 13, 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 Notice to File Missing Parts of Provisional Application, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before March 23, 2009.

Petitioner states that a timely reply was transmitted by facsimile on March 20, 2009, which included the following papers: Copy of the previously filed correspondence, which bears a certificate of mailing dated March 20, 2009; a Credit Card Payment Form and the Notice to File Missing Parts of Provisional Application. A copy of the previously submitted reply papers accompanies the petition.

However, the credit card information provided was declined such that the reply of the statutory basic filing fee and surcharge cannot be considered timely transmitted. Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted.

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 Alicia Kelley at (571) 272-6059.

Chris Bottorff
Petitions Examiner
Office of Petitions

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JOHN J. MINEHART
5539 BRIARCLIFF DRIVE
SARASOTA FL 34232

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SEP 08 2009

OFFICE OF PETITIONS

In re Application of	:	
John Joseph Minehart	:	LETTER
Application Number: 61/201435	:	DISMISSING PETITION
Filing Date: 12/10/2008	:	
For: AUTOPEN - A PEN THAT IS	:	
DESIGNED TO BE WORN IN SOME	:	
MANNER BY A PERSON OR ATTACHED	:	
TO SURFACES WHERE PEN IS NEEDED	:	

This is a letter in response to the communication filed on March 2, 2009, concerning the U.S. Patent and Trademark Office's handling of an application assigned application Serial No. 61/201,435.

The petition is dismissed for the reasons stated.

The application was filed on December 10, 2008. However, on January 2, 2009, 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 of December 10, 2008, and advising applicant that Figures 4-11 described in the specification appeared to have been omitted.

In response, the present letter was filed, accompanied by four (4) pages of text and three (3) sheets of drawings. Applicant asserts, in pertinent part:

> I believe I made a mistake by placing the incorrect title at the top of each page … which labeled them as Drawing Number 1, Drawing Number 2, and Drawing Number 3. I have eliminated these titles all together and having included the work figure (Fig) prior to each number on all three pages of drawings so they would correspond to the numbers associated with each drawing on the Brief Description which I originally reefed (*sic*) to as DRAWINGS PAGE.

The notice stated that 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 deposited must be filed within TWO MONTHS of the date of this Notice.

At the outset, it is noted that the $400.00 fee has not been submitted. 37 CFR 1.22 states that Patent fees and charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable.

Nevertheless, it is noted that petitioner concedes that Figures 4-11 were omitted to the extent that the figures were mislabeled or unlabelled, and seeks to amend the application to correct the omission.

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 of the provisional application.[1] Therefore, the sheets of drawings submitted with the present petition will not be used for processing as a part of the original application papers, but will be retained in the application file.

Furthermore, MPEP 601.01(d) states:

> The submission of omitted page(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 CFR 1.182 (with the petition fee under 37 CFR 1.17(f)) with any omitted page(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)

[1] See 37 CFR 1.53(c).

> 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.

Accordingly, the application will be processed with the application papers present on filing. The papers filed with the subject communication will not be processed, but will be retained in the application file.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of December 10, 2008, using the application papers present on filing.

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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Roeder & Broder LLP
5560 Chelsea Avenue
La Jolla CA 92037

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of :
Keith Allen Langenbeck :
Application No. 61/201,508 : ON PETITION
Filed: December 11, 2008 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 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 January 13, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 14, 2009. The Notice of Abandonment was mailed September 23, 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).

The required reply is incomplete. There is still $5 due to complete the statutory basic filing fee according to the Notice to File Missing Parts of Provisional Application that was mailed on January 13, 2009.

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

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

By 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 Johnson
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Roeder & Broder LLP
5560 Chelsea Avenue
La Jolla CA 92037

In re Application of	:	
Keith Allen Langenbeck	:	
Application No. 61/201,508	:	ON PETITION
Filed: December 11, 2008	:	
Attorney Docket No. 20060.03.PRV	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 12, 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 Provisional Application (Notice) mailed January 13, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 14, 2009. The Notice of Abandonment was mailed September 23, 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 $5 to complete the 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 appropriate action on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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350 CAMBRIDGE
SUITE 100
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Sramek et al.	:	
Application No. 61/201,906	:	DECISION DISMISSING
Filed: December 15, 2008	:	PETITION
Attorney Docket No. S08-366/PROV	:	

This is a decision on the petition filed January 8, 2009, requesting that the above-identified application be accorded a filing date of December 15, 2008.

A review of the file record shows that USPTO records originally show a December 15, 2008 filing date accorded to provisional application 61/201,906 as evidenced by the Official Filing Receipt mailed to applicant on May 6, 2009.

In view of the above, the petition is **DISMISSED AS MOOT**

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries relating to this decision should be directed to Joan Olszewski at (571) 7751. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Robert Lodenkamper
Lumen Patent Firm
2345 Yale Street, 2nd Floor
Palo Alto, CA 94306-1429

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Armstrong :
Application No. 61/202,647 : DECISION
Filed/Deposited: 23 March, 2009 :
Attorney Docket No. AMBI-001/00US :

This is a decision on the petition filed on 29 April, 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 23 March, 2009.

On 20 April, 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 29 April, 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 23 March, 2009, without drawings, and the Office transmitted to Petitioner on 20 April., 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 20 April, 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 23 March, 2009, 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 was not 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) to be processed for correction of the filing date to 23 March, 2009, with the 83 pages of specification (description, claims) deposited on 23 March, 2009, 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

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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:

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FEB 01 2010

OFFICE OF PETITIONS

Michael Lambright
3025 Regent Square Court #2
Goshen, IN 46526

In re Application of	:	
Michael Lambright	:	
Application No. 61/203,121	:	DECISION ON PETITION
Filed: December 18, 2008	:	
Attorney Docket No. 2552-0030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 Non-Provisional Application (Notice), mailed January 7, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 2009. A Notice of Abandonment was mailed September 22, 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 $25 surcharge fee and $110 provisional filing fee (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees 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.

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received November 23, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 13 2010

OFFICE OF PETITIONS

BAMBI FAIVRE WALTERS PC
PO BOX 5743
WILLIAMSBURG VA 23188

In re Application of :
James Badia :
Application No. 61/203,249 : ON PETITION
Filed: December 19, 2009 :
Attorney Docket No. 2008-JBPA :

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

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts of Provisional Application, mailed February 3, 2009. This Notice set an extendable period for reply of two (2) months for applicant to submit a replacement compact disc and duplicate copy. No reply having been received, the application became abandoned on April 4, 2009. The Office mailed a Notice of Abandonment on October 15, 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]

Here, petitioner has not submitted a docket record. On renewed petition, petitioner must submit a copy of the firm's docket report, showing all of the replies docketed for a due date of April 3, 2009.

While the showing of record is not sufficient to establish to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Copy of February 3, 2009 Notice (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/203,249	12/19/2008	James Badia	2008-JBPA

CONFIRMATION NO. 7145

Bambi Faivre Walters, PC
PO Box 5743
Williamsburg, VA 23188

FORMALITIES LETTER

OC000000034269223

Date Mailed: 02/03/2009

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).

- Only a single copy of each compact disc was submitted. Applicant is required 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)).
- Applicant submitted a compact disc and a duplicate copy of the compact disc, but one of the compact discs (either the original disc or the duplicate copy) contains unreadable files. If a directory of the compact disc could be printed, it is attached and the unreadable files are marked on the directory. Applicant is required to submit: (1) a replacement compact disc in a readable format containing all of the files listed in the specification, 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)).

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- *The compact discs already submitted fail to comply with the labeling requirements of 37 CFR 1.52(e)(6) which requires each disc be labeled "Copy 1" and "Copy 2", respectively; and for replacement compact discs "COPY 1 REPLACEMENT MM/DD/YYYY" (with the month, day and year of creation indicated), and "COPY 2 REPLACEMENT MM/DD/YYYY". Any replacement compact discs submitted should be accompanied by a certification as required by 37 CFR 1.52(e) that each disc of a duplicate set is identical to the other disc of the set. Any new compact discs submitted must comply with the labeling requirements.*

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.

/fberhanc/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FEB 26 2010

OFFICE OF PETITIONS

RICK BATT ATTORNEY AT LAW
3617 OAK DRIVE
MENLO PARK CA 94025

MAILED

FEB 26 2010

OFFICE OF PETITIONS

In re Application of :
Anthony R. MEGARO :
Application No. 61/203,313 : DECISION ON PETITION
Filed: November 3, 2008 :
Attorney Docket No. MEG-1000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice), mailed February 3, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 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 the required fees; (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.

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

This application is being referred to the Office of Data Management for further processing in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEVINE, MILLIMET & BRANCH, P.A.
111 AMHERST STREET
BOX 719
MANCHESTER NH 03105

COPY MAILED

JUN 25 2009

OFFICE OF PETITIONS

In re application of
Jon L. Williamson
Application No. 61/203,340
Filed: December 22, 2008
Attorney Docket No. 14816/85250

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This 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) 272-3208.

/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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DEVINE, MILLIMET & BRANCH, P.A.
111 AMHERST STREET
BOX 719
MANCHESTER NH 03105

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re application of
Abraham Meran
Application No. 61/203,378
Filed: December 22, 2008
Attorney Docket No. 14816/82784

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This 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) 272-3208.

/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

ROBINS & PASTERNAK
1731 Embarcadero Road
Suite 230
Palo Alto, CA 94303

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SEP 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Sung-Yun Kwon	:	
Application No. 61/203,800	:	DECISION ON PETITION
Filed: December 29, 2008	:	TO WITHDRAW
Attorney Docket No. 4000-0007P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 2009.

The request is **APPROVED**.

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 Roberta L. Robins 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 Sung-Yun Kwon at the address indicated below.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Sung-Yun Kwon**
THERAJECT, INC.
39270 Paseo Padre, Suite 112
Freemont, CA 94538

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
61/203,800	12/29/2008	Sung-Yun Kwon	4000-0007P

CONFIRMATION NO. 1411

POWER OF ATTORNEY NOTICE

20855
ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

OC000000037824011

Date Mailed: 09/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2009.

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

/tsjohnson/

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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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/203,921	03/25/2009	Miguel Caridad Delarosa		5934

EXAMINER

7590 06/26/2009

MIGUEL DELAROSA
900 SMOKEY MOUNTAIN TRAIL
NORTH WILKESBORO, NC 28659

ART UNIT	PAPER NUMBER

MAIL DATE	DELIVERY MODE
06/26/2009	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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Alexandria, VA 22313-1450
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Ryan A. Heck, Ph.D.
UNR/DRI Technology Transfer Office
UNR-DRI Technology Transfer Office, Mail stop 321
1664 N. Virginia St
Reno NV 89557

MAILED

MAR 0 9 2010

OFFICE OF PETITIONS

In re Application of :
Eric J. OLSON :
Application No. 61/204,868 : DECISION ON PETITION
Filed: January 12, 2009 :
Attorney Docket No. UNR09-002 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Provisional Application mailed February 20, 2009, which set a shortened statutory period for reply of two (2) months. A reply was due on or before April 20, 2009. Accordingly, the above-identified application became abandoned on April 21, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a transmittal letter (37 CFR 1.52(e)(5); (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Provisional Application of February 20, 2009 is accepted as having been unintentionally delayed.

A provisional application may be revived so as to be pending for a period longer than 12 months from its filing date. This application was hereby deemed revived until January 12, 2010, when it became abandoned as a matter of law.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZANGENA MUNROE
151 TILLMAN STREET
PORT CHARLOTTE FL 33954

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Zangena I. MUNROE	:	
Application No. 61/204,875	:	DECISION ON PETITION
Filed: January 13, 2009	:	
Attorney Docket No.	:	

This is in response to the communication, filed December 02, 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 March 11, 2009, the Office mailed a Notice of Missing Parts Office action, which set a two (2) month shortened statutory period to reply. The application became abandoned on May 12, 2009, for failure to submit a timely response to the Notice of Missing Parts Office action. On November 19, 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 March 11, 2009 Office action. Specifically, petitioner states that there are three (3) people who collect the mail at any given time and that the notice of March 11, 2009 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 March 11, 2009 Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

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 Missing Parts of March 11, 2009, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after March 11, 2009, to demonstrate nonreceipt of the Notice of Missing Parts 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 of Missing Parts 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 March 11, 2009; the period when he would have received the March 11, 2009 Office action.

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 Notice of Missing Parts Office action mailed March 11, 2009. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the Notice of Missing Parts Office action accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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 $750.00 petition fee.

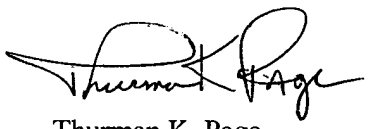
Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 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 Michelle R. Eason at (571) 272-4231.



Thurman K. Page
Petitions Examiner
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 Office action dated March 11, 2009.

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
61/204,875	01/13/2009	Zangena Iona Munroe	

CONFIRMATION NO. 1518

Zangena Munroe
151 Tillman Street
Port Charlotte, FL 33954

FORMALITIES LETTER

OC000000034944854

Date Mailed: 03/11/2009

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 insufficient.
  Applicant must submit $5 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 **$30** for a small entity
- **$5** 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.

/rerry/

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
DIW Jan-10

JOHN T. WHITTEMORE
6441 HIGH PLAINS CT.
MIDLOTHIAN TX 76505

COPY MAILED

JAN 27 2010

In re Application of	:	
John T. Whittemore	:	
Application Number: 61/205432	:	ON PETITION
Filing Date: 01/21/2009	:	
For: WALL MOUNTED BACK WASHER -	:	
WITH LOTION APPLICATION	:	
ATTACHMENT	:	

This is a decision on the petition, filed on November 5, 2009, styled as a petition under 37 CFR 1.137(b), which, in the absence of the required petition fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[1]

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. **This time period is not extendable.**[2]

The application became abandoned on April 6, 2009, for failure to timely respond to the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on October 16, 2009.

Petitioner states "I was unaware of the Notice to File Missing Parts of Provisional Application until I received the Notice of Abandonment." Petitioner has submitted the fees required by the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009.

[1] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).
[2] 37 CFR 1.181(f).

As stated above, in the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment.[3]

A review of the record indicates no irregularity in the mailing of the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009, and, in the absence of any irregularity in the mailing, there is a strong presumption that the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 was not in fact received.

MPEP 711.03(c) states:

> 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

[3] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

> docket number, the mail date of the Office action and the due date for the response.
>
> **Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.**
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> (emphasis added)

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. In this regard, petitioner has presented no evidence to substantiate a claim of non-receipt of the Notice to File Missing Parts of Provisional Application.

Petitioner must state that the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 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 Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 was not received. A copy of the record(s) used by the practitioner where the non-received Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 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 Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 should include the master docket for the firm. That is, if a two month period for reply was set in the nonreceived Notice to File Missing Parts of Provisional Application mailed on February 5, 2009, a copy of the master docket report showing all replies docketed for a date two months from the mail date of the nonreceived Notice to File Missing Parts of Provisional Application mailed on February 5, 2009 must be submitted as documentary proof of nonreceipt of the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

In the absence of a showing that the Notice to File Missing Parts of Provisional Application mailed on February 5, 2009, was not received, the petition to withdraw the holding of abandonment must be dismissed.

As the showing of record does not merit withdrawal of the holding of abandonment, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b),[4] which now provides that where the delay in reply was

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[4] 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

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).

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 should note that the fee for filing a petition under 37 CFR 1.137(b) (small entity) currently is $810.00. As Office fees may change from time-to-time, however, petitioner should consult the Office at www.uspto.gov or at 1-800-PTO-9199 for current fee information prior to filing a petition or other paper requiring payment of a 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 FAX: (571) 273-8300
Attn: Office of Petitions

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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)).

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 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT GROUP GA030-43
GEORGIA-PACIFIC LLC
133 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1847

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Guy H. Super et al	:	
Application No. 61/206,146	:	DECISION GRANTING
Filed: January 28, 2009	:	PETITION
Attorney Docket No. 20598 (GP-08-15)	:	

This is a decision on the petition filed February 27, 2009, requesting that the above-identified application be accorded a filing date of January 28, 2009, rather than the presently accorded date of January 27, 2009. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on January 28, 2009 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EH179252482US bears a handwritten "date-in" of January 27, 2009, it also includes a USPS receipt date stamp of January 28, 2009. 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 January 28, 2009.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the evidence presented and the date and signature on the certificate of mailing by express mail on January 28, 2009, it is concluded that the package bearing Express Mail label No. EH179252482US was accepted on January 28, 2009.

This application file is being returned to the Office of Patent Application Processing (OPAP) for **correction of the filing date to January 28, 2009 and issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOBBIE BULLOCK
P.O. Box 25374
Winston-Salem NC 27114

MAILED

APR 2 6 2010

OFFICE OF PETITIONS

In re Application of :
Bobbie A. Bullock :
Application No. 61/206,351 : DECISION ON PETITION
Filed: January 29, 2009 :
Attorney Docket No. :

This is a decision on the petition filed November 24, 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.

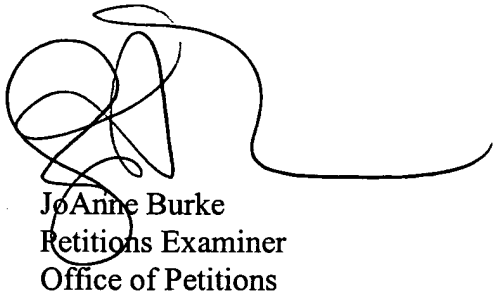
Further correspondence with respect to this matter should be addressed as follows:

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) 272-4584.



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

Derek Hopkins
Liquid Health Labs
65 Raymond Rd.
Deerfield NH 03037

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of :
Robert Dale ROHR et al. :
Application No. 61/207,470 :
Filed: February 13, 2009 :
Attorney Docket No. N/A :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Provisional Application mailed March 03, 2009, which set a shortened statutory period for reply of two (2) months. A reply was due on or before May 03, 2009. Accordingly, the above-identified application became abandoned on May 04, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required statutory fee of $5, surcharge of $25, (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Provisional Application of March 03, 2009 is accepted as having been unintentionally delayed.

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 February 13, 2009, when it became abandoned as a matter of law.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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 Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

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

David Bucci
Petitions Examiner
Office of Petitions

CC: Eileen O'Donnell
P.O. Box 72
Londonerry, NH 03053

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
12/370,968	02/13/2009	Chun Kwong Chu	107622-64151

CONFIRMATION NO. 6697

26345
GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK, NJ 07102

CONVERSION REQUEST

OC000000034648384

Date Mailed: 02/20/2009

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 **02/17/2009,** 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 **61/207,852.** 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
12/315,494	12/02/2008	Carrel W. Ewing	57058.0096

CONFIRMATION NO. 9287

CONVERSION REQUEST

26582
HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

Date Mailed: 02/20/2009

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 **02/17/2009,** 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 **61/207,853.** 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
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/054,900	03/25/2008	RICHARD J. O'BRIEN	P0022633.00

CONFIRMATION NO. 6883

CONVERSION REQUEST

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

OC000000034794196

Date Mailed: 03/02/2009

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 **02/19/2009,** 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 **61/207,854.** 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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

2/20/09

In re Application of:
O'BRIEN, RICHARD J.
Serial No.: 12/054,900
Filed: Mar. 25, 2008
Docket: P0022633.00
Title: ROBUST HIGH POWER AND LOW POWER CARDIAC LEADS HAVING INTEGRATED SENSORS

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed Feb. 19, 2009 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) was charged to the Deposit Account No. 13-2546 as authorized.

The petition filed on Feb. 19, 2009 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 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 12054900 on 03/02/2009

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
12/182,722	07/30/2008	Edward Jeram	2912909-019000

CONFIRMATION NO. 4289

84331
Baker Donelson Bearman, Caldwell & Berkowitz, PC
555 Eleventh Street, NW, Sixth Floor
Washington, DC 20004

CONVERSION REQUEST

OC000000034799252

Date Mailed: 03/02/2009

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 **01/21/2009,** 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 **61/207,855.** 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
12/048,822	03/14/2008	Jens Eskil Trudso	07-507

CONFIRMATION NO. 5648

CONVERSION REQUEST

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison, NJ 08837-2220

OC000000034980352

Date Mailed: 03/12/2009

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 **03/04/2009,** 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 **61/207,856.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/048,822	03/14/2008	Jens Eskil Trudso	07-507	5648

7590 03/06/2009

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison, NJ 08837-2220

EXAMINER	
ART UNIT	PAPER NUMBER
1614	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

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

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MAR 0 6 2009

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison NJ 08837-2220

Jens Eskil Trudso :
Serial No.: 12/048,822 : CONVERSION TO PROVISIONAL
Filed: March 14, 2008 :
Attorney Docket No.: **07-507** :

This is in response to applicant's request, filed March 4, 2009, 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
Technology Center 1600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/048,912	03/14/2008	Jens Eskil Trudso	08-501

CONFIRMATION NO. 5811

CONVERSION REQUEST

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison, NJ 08837-2220

OC000000034981487

Date Mailed: 03/12/2009

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 **03/04/2009,** 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 **61/207,857.** 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)
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/048,708	03/14/2008	Jens Eskil Trudso	07-509

CONFIRMATION NO. 5414

CONVERSION REQUEST

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison, NJ 08837-2220

OC000000034981746

Date Mailed: 03/12/2009

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 **03/04/2009,** 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 **61/207,858.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

JANICE L TIPPETT
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/048,708	03/14/2008	Jens Eskil Trudso	07-509	5414

7590 03/06/2009

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison, NJ 08837-2220

EXAMINER	
SIMMONS, CHRIS E	
ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

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MAR 0 6 2009

David M. Goodrich, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison NJ 08837-2220

Jens Eskil Trudso :
Serial No.: 12/048,708 : CONVERSION TO PROVISIONAL
Filed: March 14, 2008 :
Attorney Docket No.: **07-509** :

This is in response to applicant's request, filed March 4, 2009, 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
Technology Center 1600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/641,125	12/18/2006	Timothy M. Swager	M0925.70180US01

CONFIRMATION NO. 7059

CONVERSION REQUEST

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 03/13/2009

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 **11/02/2007,** 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 **61/207,859.** 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)
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/641,125	12/18/2006	Timothy M. Swager	M0925.70180US01	7059

23628 7590 09/12/2008
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER	
TRUONG, DUC	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
09/12/2008	PAPER

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CST

9/12/08

In re application of
Timothy M. Swager et al
Serial No. 11/641,125
Filed: December 18, 2006
For: COMPOSITIONS INCLUDING POLYMERS ALIGNED VIA INTERCHAIN INTERACTIONS

DECISION ON PETITION

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed November 2, 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 /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/054,859	03/25/2008	THOMAS D. BROSTROM	P0032097.01

CONFIRMATION NO. 6817

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

Date Mailed: 03/25/2009

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 **03/11/2009,** 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 **61/207,860.** 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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

3/12/09

In re Application of:
BROSTROM, THOMAS D.
Serial No.: 12/054,859
Filed: Mar. 25, 2008
Docket: P0032097.00
Title: INTEGRATED CONDUCTIVE PRESSURE SENSOR CAPSULE WITH CUSTOM MOLDED UNITARY OVERLAY

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed March 11, 2009 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) was charged to the Deposit Account No. 13-2546 as authorized.

The petition filed on March 11, 2009 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 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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/054,833	03/25/2008	MICHAEL A. SCHUGT	P0029636.01

CONFIRMATION NO. 6778

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

OC000000035175421

Date Mailed: 03/25/2009

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 **02/24/2009,** 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 **61/207,861.** 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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

2/26/09

In re Application of:
SCHUGT, MICHAEL A. et al
Serial No.: 12/054,833
Filed: Mar. 25, 2008
Docket: P0029636.00
Title: INTEGRATED CONDUCTIVE SENSOR PACKAGE HAVING CONDUCTOR BYPASS, DISTAL ELECTRODE, DISTAL ADAPTER AND CUSTOM MOLDED OVERLAY

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed Feb. 24, 2009 under 37 CFR 1.53·(C) (2). A fee of $50.00 under 37 CFR § 1.17(q) was charged to the Deposit Account No. 13-2546 as authorized.

The petition filed on Feb. 24, 2009 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 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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/195,208	08/20/2008	Steven B. KANNER	511582002021

CONFIRMATION NO. 8058

36327
AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

CONVERSION REQUEST

OC00000035273159

Date Mailed: 04/01/2009

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 **11/18/2008,** 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 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 **61/207,862.** 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)
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MAR 13 2009

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

Kanner et al. :
Serial No.: 12/195,208 : CONVERSION TO PROVISIONAL
Filed: August 20, 2008 :
Attorney Docket No.: **511582002021** :

This is in response to applicant's request, filed November 18, 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
Technology Center 1600

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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
11/674,405	02/13/2007	Pavel Cheben	20266-US

CONFIRMATION NO. 4461

CONVERSION REQUEST

AIR MAIL
23553
MARKS & CLERK
P.O. BOX 957
STATION B
OTTAWA, ON K1P 5S7
CANADA

OC000000035302549

Date Mailed: 04/02/2009

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 **02/06/2008,** 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 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 **61/207,863.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/674,405	02/13/2007	Pavel Cheben	20266-US	4461

23553 7590 02/06/2009

MARKS & CLERK
P.O. BOX 957
STATION B
OTTAWA, ON K1P 5S7
CANADA

EXAMINER	
SONG, SARAH U	
ART UNIT	**PAPER NUMBER**
2874	

MAIL DATE	DELIVERY MODE
02/06/2009	PAPER

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

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P.O. Box 957, Station B,
Ottawa, Ontario, Canada
K1P 5S7

In re Application of:	:	
Pavel Cheben et al.	:	
Serial No.: 11/674,405	:	DECISION ON PETITION
Filed: February 13, 2007	:	TO CONVERT APPLICATION
Attorney Docket No.: 20266-US	:	
Title: INTERFACE DEVICE FOR PERFORMING MODE TRANSFORMATION IN OPTICAL WAVEGUIDES	:	

This is a decision on the petition under 37 C.F.R. § 1.53(c)(2), filed February 6, 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.

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/048,264	03/14/2008	ROLF GROTELUSCHEN	0288-059P/JAB

CONFIRMATION NO. 4593

22831
SCHWEITZER CORNMAN GROSS & BONDELL LLP
292 MADISON AVENUE - 19th FLOOR
NEW YORK, NY 10017

CONVERSION REQUEST

OC000000035464133

Date Mailed: 04/13/2009

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 **03/13/2009,** 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 **61/207,864.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/048,264	03/14/2008	ROLF GROTELUSCHEN	0288-059P/JAB	4593

22831 7590 03/16/2009

SCHWEITZER CORNMAN GROSS & BONDELL LLP
292 MADISON AVENUE - 19th FLOOR
NEW YORK, NY 10017

EXAMINER	
ART UNIT	PAPER NUMBER
1614	

MAIL DATE	DELIVERY MODE
03/16/2009	PAPER

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MAR 1 6 2009

SCHWEITZER CORNMAN GROSS & BONDELL LLP
292 MADISON AVENUE - 19th FLOOR
NEW YORK NY 10017

Groteluschen et al.	:
Serial No.: 12/048,264	: CONVERSION TO PROVISIONAL
Filed: March 14, 2008	:
Attorney Docket No.: **0288-059P/JAB**	:

This is in response to applicant's request, filed March 13, 2009, 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
Technology Center 1600

Copied from 12048264 on 04/13/2009

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
12/322,320	02/02/2009	Andrew L. Bender	P35923 USA

CONFIRMATION NO. 2009

23307
FOX ROTHSCHILD LLP
2000 MARKET STREET
10th Floor
PHILADELPHIA, PA 19103

CONVERSION REQUEST

Date Mailed: 04/27/2009

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 **03/16/2009,** 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 **61/207,865.** 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
12/344,627	12/29/2008	Timothy B. Nyman	042061.0022

CONFIRMATION NO. 6470

1209
WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH, VA 23462

CONVERSION REQUEST

OC000000035689981

Date Mailed: 04/27/2009

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 **04/06/2009,** 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 **61/207,866.** 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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WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH VA 23462

4/9/09

In re Application of:
NYMAN, TIMOTHY B. et al
Serial No.: 12/344,627
Filed: Dec. 29, 2008
Docket: 042061.0022
Title: SYSTEM, DEVICE AND METHOD FOR PAPERLESS WAGERING AND PAYMENT OF WINNINGS

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed April 6, 2009 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) was charged to the Deposit Account No. 50-0766 as authorized.

The petition filed on April 6, 2009 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 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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/345,035	12/29/2008	Neal A. Seegmiller	TA-01081

CONFIRMATION NO. 7139

82907
Bracewell & Giuliani LLP
P.O. Box 61389
Houston, TX 77208-1389

CONVERSION REQUEST

OC000000035691237

Date Mailed: 04/27/2009

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 **03/13/2009,** 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 **61/207,867.** 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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Alexandria, VA 22313-1450
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Bracewell & Giuliani LLP
P.O. Box 61389
Houston TX 77208-1389

3/17/09

In re Application of:
SEEGMILLER, NEAL A.
Serial No.: 12/345,035
Filed: Dec. 29, 2008
Docket: TA-01081
Title: SYSTEM, METHOD AND APPARATUS FOR PULSED INDUCTION HEAT REMOVAL OF ADHESIVELY-BONDED NUTPLATES FROM COMPOSITE STRUCTURAL ASSEMBLIES

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed March 13, 2009 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) was paid.

The petition filed on March 11, 2009 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 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 12345035 on 04/27/2009

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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
12/347,743	12/31/2008	John W. Lawton	P184 1080.1

CONFIRMATION NO. 1598

CONVERSION REQUEST

26158
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

OC000000035692058

Date Mailed: 04/27/2009

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 **03/09/2009,** 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 **61/207,868.** 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
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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
11/861,805	09/26/2007	Adrie Landa	226976-1

CONFIRMATION NO. 8960

CONVERSION REQUEST

43249
CANTOR COLBURN LLP - SABIC (NORYL)
20 Church Street
22nd Floor
Hartford, CT 06103

OC000000035476605

Date Mailed: 04/28/2009

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 **61/207,869.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/861,805	09/26/2007	Adrie Landa	226976-1	8960

43249 7590 09/12/2008

CANTOR COLBURN LLP - SABIC (NORYL)
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
CHEUNG, WILLIAM K	
ART UNIT	**PAPER NUMBER**
1796	

MAIL DATE	DELIVERY MODE
09/12/2008	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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CST

9/12/08

In re application of :
Adrie Landa :
Serial No. 11/861,805 : DECISION
Filed: August 26, 2007 : ON PETITION
For: HIGH CTI POLY(ARYLENE ETHER) :
COMPOSITION :

This is a decision on the PETITION TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed May 1, 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 /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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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
12/369,506	02/11/2009	Chris Campbell	48442-P001US

CONFIRMATION NO. 3970

CONVERSION REQUEST

63467
WILLIAM P. RAMEY, III
WINSTEAD PC
1100 JPMogan Chase Tower
600 Travis
Houston, TX 77002

Date Mailed: 04/27/2009

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 **03/13/2009,** 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 **61/207,870.** 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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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/060,699	04/01/2008	Michael Tischler	093350-0501

CONFIRMATION NO. 7120

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

CONVERSION REQUEST

OC000000035692651

Date Mailed: 04/27/2009

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 **06/23/2008,** 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 **61/207,871.** 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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/060,699	04/01/2008	Michael Tischler	093350-0501	7120

30542 7590 04/09/2009

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

EXAMINER	
CRITE, ANTONIO B	
ART UNIT	**PAPER NUMBER**
4116	

MAIL DATE	DELIVERY MODE
04/09/2009	PAPER

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

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

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

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of:
Michael Tischler et al.
Serial No.: 12/060,699
Filed: April 1, 2008
For: IMPROVED-BRIGHTNESS LEDS

DECISION ON PETITION
TO CONVERT APPLICATION

This is a decision on the petition under 37 C.F.R. § 1.53(c)(2), filed June 23, 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 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)(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.

Any inquiry regarding this decision should be directed to Jose' G. Dees, Quality Assurance Specialist, at (571) 272-1569.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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
12/111,300	04/29/2008	Edward W. Gulley	42323-245693

CONFIRMATION NO. 7100

CONVERSION REQUEST

26694
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

OC000000035692829

Date Mailed: 04/28/2009

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 **04/23/2009,** 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 **61/207,872.** 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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APR 24 2009

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

Gulley et al.	:
Serial No.: 12/111,300	: CONVERSION TO PROVISIONAL
Filed: April 29, 2008	:
Attorney Docket No.: **42323-245693**	:

This is in response to applicants' request, filed April 23, 2009, 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
Technology Center 1600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/261,990	10/30/2008	Robert McGowen	DPLN:054US

CONFIRMATION NO. 5366

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

CONVERSION REQUEST

Date Mailed: 04/28/2009

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 **02/02/2009,** 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 **61/207,873.** 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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MAR 12 2009

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

McGowen et al.
Serial No.: 12/261,990 : CONVERSION TO PROVISIONAL
Filed: October 30, 2008
Attorney Docket No.: **DPLN:054US**

This is in response to applicant's request, filed February 2, 2009, 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
Technology Center 1600

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 12 2009

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

McGowen et al.
Serial No.: 12/261,990 : CONVERSION TO PROVISIONAL
Filed: October 30, 2008
Attorney Docket No.: **DPLN:054US**

This is in response to applicant's request, filed February 2, 2009, 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
Technology Center 1600

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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
12/135,050	06/06/2008	Mahmoud Bahy Noureldin	004159.003055A (SA555)

CONFIRMATION NO. 2956

35979
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

CONVERSION REQUEST

OC000000035881430

Date Mailed: 05/08/2009

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 **04/22/2009,** 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 **61/207,874.** 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
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Alexandria, VA 22313-1450
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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

4/24/09

In re Application of:
NOURELDIN, MAHMOUD BAHY et al
Serial No.: 12/135,050
Filed: Jun. 6, 2008
Docket: 004159.003055A (SA555)
Title: SYSTEM, PROGRAM PRODUCT, AND RELATED METHODS FOR GLOBAL TARGETING OF PROCESS UTILITIES UNDER VARYING CONDITIONS

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed April 22, 2009 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) was charged to the Deposit Account as authorized.

The petition filed on April 33, 2009 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 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

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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
11/228,897	09/16/2005	Charles W. Extrand	2267.1032US01

CONFIRMATION NO. 2162

CONVERSION REQUEST

24113
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

OC000000035881452

Date Mailed: 05/08/2009

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 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 **61/207,875.** 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/228,897	09/16/2005	Charles W. Extrand	2267.1032US01	2162

24113 7590 04/24/2009
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

EXAMINER	
CHEVALIER, ALICIA ANN	
ART UNIT	**PAPER NUMBER**
1794	
MAIL DATE	**DELIVERY MODE**
04/24/2009	PAPER

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

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

Copied from 11228897 on 05/07/2009

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

4/24/09

In re application of
Charles W. Extrand et al
Serial No. 11/228,897
Filed: September 16, 2005
For: CARRIER WITH ANISOTROPIC WETTING SURFACES

DECISION ON PETITION

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.

As noted in the communication of February 19, 2009, the Restriction Requirement of December 26, 2008 is vacated.

The petition is **GRANTED.**

This application will be forwarded to the Office of Patent Application Processing (OPAP) for conversion to a provisional application.

/ Christine Tierney /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 11228897 on 05/07/2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/136,152	06/10/2008	Aldo A. Laghi	A34800-114166

CONFIRMATION NO. 5066

Robert S. Pippenger
Shumaker, Loop & Kendrick, LLP
P.O. Box 172609
Tampa, FL 33672-0609

CONVERSION REQUEST

OC000000035920583

Date Mailed: 05/11/2009

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 **01/21/2009,** 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 **61/207,876.** 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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/133,540	06/05/2008	GREG LEYH	ALTU-3300

CONFIRMATION NO. 9851

72003
Cutera c/o MoFo
425 Market Street
San Francisco, CA 94105-2482

CONVERSION REQUEST

Date Mailed: 05/18/2009

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 **06/27/2008,** 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 **61/207,877.** 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
12/215,635	06/27/2008	Justin Kuhn	809434-0016

CONFIRMATION NO. 6482

27910
STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY, MO 64106-2150

CONVERSION REQUEST

OC000000036054148

Date Mailed: 05/19/2009

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 **02/06/2009,** 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 **61/207,878.** 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
12/420,467	04/08/2009	Scott A. Rankin	09820867/P08339US

CONFIRMATION NO. 2538

CONVERSION REQUEST

60961
Intellectual Property Dept./Dewitt Ross & Stevens
Wisconsin Alumni Research Foundation
2 East Mifflin Street,
Suite #600
Madison, WI 53703-2865

Date Mailed: 05/20/2009

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 **05/12/2009,** 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 **61/207,879.** 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 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
12/363,449	01/30/2009	Mohamed Bahnas	10537-PROV/RAD

CONFIRMATION NO. 1989

58377
MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE, OR 97070-7777

CONVERSION REQUEST

OC00000036056072

Date Mailed: 05/28/2009

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 **05/18/2009,** 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 **61/207,880.** 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
12/330,616	12/09/2008	Dominique Destree	FR2008/119 US NP

CONFIRMATION NO. 1170

CONVERSION REQUEST

5487
ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

OC000000036198283

Date Mailed: 05/29/2009

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 **05/19/2009,** 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 **61/207,881.** 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
12/362,690	01/30/2009	Yossi Veller	10533-PROV/RAD

CONFIRMATION NO. 1577

58377
MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE, OR 97070-7777

CONVERSION REQUEST

OC000000036198461

Date Mailed: 05/28/2009

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 **05/26/2009,** 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 **61/207,882.** 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
12/363,735	01/31/2009	Bing Li	10538-REG1/RAD

CONFIRMATION NO. 2607

58377
MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE, OR 97070-7777

CONVERSION REQUEST

OC00000036592778

Date Mailed: 06/22/2009

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 **06/15/2009,** 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 **61/207,883.** 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
12/363,752	01/31/2009	Mohamed Al-Imam	10539-REG1/RAD

CONFIRMATION NO. 2643

58377
MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE, OR 97070-7777

CONVERSION REQUEST

OC000000036593291

Date Mailed: 06/22/2009

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 **06/15/2009,** 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 **61/207,884.** 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
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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
12/266,163	11/06/2008	Ryan Schroeder	P184 1040.1

CONFIRMATION NO. 3553

CONVERSION REQUEST

26158
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING
P.O. BOX 7037
ATLANTA, GA 30357-0037

OC00000036793717

Date Mailed: 07/06/2009

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 **06/24/2009,** 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 **61/207,885.** 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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/403,917	03/13/2009	Haridasan K. Nair	H0021973

CONFIRMATION NO. 1615

CONVERSION REQUEST

128
HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 07/06/2009

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 **05/29/2009,** 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 **61/207,886.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/403,917	03/13/2009	Haridasan K. Nair	H0021973	1615

128 7590 06/23/2009

HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

EXAMINER	
MARTINEZ, BRITTANY M	
ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
06/23/2009	PAPER

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

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

Copied from 12403917 on 07/06/2009

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

JUN 23 2009

CST

In re application of	:	
Haridasan K. Nair et al	:	
Serial No. 12/403,917	:	DECISION
Filed: March 13, 2009	:	ON PETITION
For: PROCESS FOR	:	
PHOSPHORUS PENTAFLUORIDE	:	

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed May 29, 2009.

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 Patent Application Processing (OPAP) for conversion to a provisional application.

/ Christine Tierney /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 12403917 on 07/06/2009

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
12/358,749	01/23/2009	Melissa Anne Smith	QUIN-1

CONFIRMATION NO. 3111

64574
BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103

CONVERSION REQUEST

Date Mailed: 08/03/2009

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 **07/16/2009,** 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 **61/207,887.** 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
12/423,025	04/14/2009	Yu-Wen Huang	MTKP0881USA

CONFIRMATION NO. 7758

27765
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

CONVERSION REQUEST

OC000000037293582

Date Mailed: 08/11/2009

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 **05/08/2009,** 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 **61/207,888.** 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
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/363,098	01/30/2009	Jei Man RYU	027707-00026

CONFIRMATION NO. 1325

CONVERSION REQUEST

4372
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

OC000000037323182

Date Mailed: 08/13/2009

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 **07/31/2009,** 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 **61/207,889.** 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
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Alexandria, VA 22313-1450
www.uspto.gov

AUG 03 2009

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

Ryu et al.	:
Serial No.: 12/363,098	: CONVERSION TO PROVISIONAL
Filed: January 30, 2009	:
Attorney Docket No.: **027707-00026**	:

This is in response to applicants' request, filed July 31, 2009, 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
Technology Center 1600

Copied from 12363098 on 08/12/2009

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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/370,674	02/13/2009	Serengulam V. Govindan	IMM317US

CONFIRMATION NO. 6159

63322
IMMUNOMEDICS, INC.
300 AMERICAN ROAD
MORRIS PLAINS, NJ 07950

CONVERSION REQUEST

OC000000037323428

Date Mailed: 08/12/2009

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 **08/03/2009,** 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 **61/207,890.** 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
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AUG 03 2009

IMMUNOMEDICS, INC.
300 AMERICAN ROAD
MORRIS PLAINS NJ 07950

Govindan et al.	:
Serial No.: 12/370,674	: CONVERSION TO PROVISIONAL
Filed: February 13, 2009	:
Attorney Docket No.: **IMM317US**	:

This is in response to applicants' request, filed July 31, 2009, 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
Technology Center 1600

Copied from 12370674 on 08/12/2009

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/537,210	08/06/2009	Brian D. Begnaud	21939-P009US

CONFIRMATION NO. 4912

CONVERSION REQUEST

75548
Winstead PC (FCC-FKI)
Henry L. Ehrlich
P.O. Box 50784
Dallas, TX 75201

Date Mailed: 08/12/2009

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 **08/07/2009,** 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 **61/207,891.** 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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DIW Sep-09

ALAN C KINNEY
42374 RADIO LANE
AUBERRY CA 93602

In re Application of :
Alan C. Kinney :
Application Number: 61/207914 : ON PETITION
Filed: 02/17/2009 :
For: DIGITAL READOUT :
REPLACEMENT FOR THE ANALOG :
METER MOVEMENT USED IN A RADIO :
FREQUENCY WATT METER :

MAILED

SEP 14 2009

OFFICE OF PETITIONS

This is a decision in reference to the paper filed on July 7, 2009, which is treated as a petition requesting that the above-identified application, including one (1) sheet of drawings, be accorded a filing date of February 17, 2009.

The petition is **GRANTED**.

On February 17, 2009, the application was filed.

On March 5, 2009, the Office of Patent Application Processing mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that applicant should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

On July 7, 2009, the subject petition was filed. One (1) sheet of drawings and an itemized postcard was also filed.

Petitioner argues that one (1) drawing sheet was filed with the other application papers on February 17, 2009, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of February 17, 2009, which includes the above-identified application number. The postcard identifies the application by the application title and customer number and acknowledges receipt of, *inter alia*, one (1) sheet of drawings. Petitioners request that the application, including the one (1) sheet of drawings, be accorded a filing date of February 17, 2009.

A review of the record reveals that no sheet of drawings received on February 17, 2009, is located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on February 17, 2009, included one (1) sheet of drawings, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings, is entitled to a filing date of February 17, 2009.

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

The application will be processed with the copy of the one (1) sheet of drawings supplied on July 7, 2009, as a part of the original disclosure.

The application is being referred to the Office of Patent Application Processing for further processing with a filing date of February 17, 2009, using the application papers filed on that date, and the copy of one (1) sheet of drawings supplied with the present petition, and for an indication in Office records that one (1) sheet of drawings was present on filing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RON MACNEIL
6220 BELL SCHOOL LINE
MILTON, ON L9T 2Y1
CANADA

MAILED

MAY 05 2010

OFFICE OF PETITIONS

In re Application of :
Ron James MacNeil :
Application No. 61/208,210 :
Filed: February 23, 2009 :
Attorney Docket No. 001 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2010, 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 April 27, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 28, 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) (2).

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 **$1620**. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee required fee is **$810**, which is half the amount indicated. See 37 CFR 1.27.

The petition in the above identified application was not accompanied by full payment of the required fee. An additional **$755** is due to complete the requirements. No consideration on the merits can be given that petition until all required fee is received.

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

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

Valencell, Inc.
Suite 101
920 Main Campus Drive
Raleigh NC 27606-5219

MAILED

JUL 23 2010

OFFICE OF PETITIONS

In re Application of :
LeBoeuf, et al. :
Application No. 61/208,567 : ON PETITION
Filed: February 25, 2009 :
Attorney Docket No. SLEBOEUF.009A :
For: FORM-FITTED APPARATUS FOR HEALTH AND ENVIRONMENTAL MONITORING

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2010, 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 22, 2009, 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 23, 2009. A Notice of Abandonment was mailed on January 5, 2010.

Applicants have submitted a proper reply to the April 22, 2009 Notice in the form of the basic filing fee and authorization to charge deposit account no. 50-0220 for the surcharge for its late filing, a proper statement of the unintentional nature of the delay in responding to the April 22, 2009 Notice, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Regarding fees: Applicants paid $105.00 toward the basic filing fee when the application was filed. Then applicants paid $110.00 for the basic filing fee. Applicants' credit card will be credited $105.00. The April 22, 2009 Notice required payment of a $25.00 surcharge. This fee has not been paid. Accordingly, $25.00 will be charged to deposit account no. 50-0220.

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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FOUNDATION PRODUCTIONS, LLC
SUITE 604
2085 BUSH STREET
SAN FRANCISCO CA 94115

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FEB 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Fisher et al.	:	
Application No. 61/208,783	:	DECISION ON PETITION
Filed: February 27, 2009	:	
Attorney Docket No. 2317	:	

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

The petitions are **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the full basic filing fee and the late surcharge, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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).* Accordingly, the instant application will become abandoned again on February 27, 2010 as a matter of law.

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

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

Liana Walsh
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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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

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JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Jason Corbett	:	
Application No. 61/209,139	:	DECISION ON PETITION
Filed: March 4, 2009	:	
Attorney Docket No. M0005-045001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 9, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 2009. A Notice of Abandonment was mailed December 16, 2009.

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is hereby abandoned again.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAR 30 2010

OFFICE OF PETITIONS

JIMMIE RAY BURLEY
6199 EAST BROADWAY #340
TUCSON, AZ 85711

In re Application of
Jimmie Ray Burley
Application No. 61/211,225
Filed: March 27, 2009
Attorney Docket No. QP090220

ON PETITION

This is in response to the communication, filed January 19, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On April 21, 2009, the Office mailed a Notice of Missing Parts of Provisional Application (Notice), which set a two month shortened statutory period to reply. The application became abandoned on June 22, 2009, for failure to submit a timely response to the Notice. On January 5, 2010, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice. Specifically, petitioner states that he did not receive 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 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 21, 2009, was not entered into that system. Petitioner should include any

available documentary evidence of the mail received, covering a reasonable period after April 21, 2009, to demonstrate non-receipt 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 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 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 21, 2009; 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 Notice. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the Notice to File Missing Parts of Provisional Application 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.

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 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 April M. Wise at (571) 272-1642

Carl Friedman
Petitions Examiner
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 Office action dated April 21, 2009.

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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Beate Edith Reisert
Richard-Wagner-Str. 8
Karlstein a.M.
Bararia 63791 DE GERMANY

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APR 07 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Reisert, et al.
Application No. 29/308,817
Deposited: July 10, 2008
Attorney Docket No. P86016US00
For: PACKING/BAGS/BEATE REISERT/10.07.08

This is a decision on the petition under 37 CFR 1.182, filed September 24, 2008, requesting conversion of Application No. 29/308,817 to a provisional application.

The above-identified application was deposited on July10, 2008 with a design patent application transmittal. It contains a detailed written description and at least one drawing but lacks a claim. On July 29, 2008, the Office mailed a Notice of Incomplete Nonprovisional Application that states, *inter alia*, a filing date has not been accorded to the application because it lacks a claim. The Notice set a two month period for reply. On September 24, 2008, applicants timely filed the instant petition to convert the incomplete design application to a provisional application and accord a filing date of July 10, 2008 to the provisional application.

An application filed under 37 CFR 1.53(b) may be converted to a provisional application provided a request for conversion is submitted along with the fee as set forth in 37 CFR 1.17(q) ($50.00). The request and fee must be submitted prior to the earlier of the abandonment of the nonprovisional application, the payment of the issue fee, the expiration of 12 months after the filing date of the nonprovisional application, or the filing of a request for statutory invention registration. MPEP 021.04(b).

The present petition meets the above-stated requirements. The petition under 37 CFR 1.182 is **GRANTED**.

In addition, it is noted that petitioners have submitted a provisional application for patent cover sheet, the $105.00 provisional filing fee and the $25.00 surcharge for late filing of the provisional application filing fee.

For future reference: Utility patent applications may claim the benefit of a provisional application under 35 U.S.C. 119(e), whereas design patent applications may not. See 35 U.S.C. 172 and 37 CFR 1.78 (a)(4).

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Application No. 29/308,817 has been converted to a provisional application.

After the mailing of this decision, the application will be referred to the Office of Patent Application Processing for further processing as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including assignment of the new provisional application number. The filing receipt for the provisional application number will be mailed to the applicants by OPAP in due course.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Copied from 29308817 on 04/13/2009

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
61/212,373	04/09/2009	Jeffrey Scott Gananian	

CONFIRMATION NO. 4243

CONVERSION REQUEST

Jeffrey S. Gananian, Esq.
PO Box 101
Pescadero, CA 94060

OC000000042320361

Date Mailed: 06/28/2010

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 **04/09/2010,** 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).

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

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United States Patent and Trademark Office
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ZUBER & TAILLIEU LLP
10866 WILSHIRE BLVD., SUITE 300
LOS ANGELES CA 90024

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APR 10 2009

OFFICE OF PETITIONS

In re Application of :
Scott David Morgan :
Application No. 29/291,669 :
Filed: NO FILING DATE YET ACCORDED :
Attorney Docket No. :

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(c) filed October 29, 2007, to covert the subject non-provisional design application to a provisional application.

The petition is **GRANTED**.

On September 10, 2007, the application was deposited.

On October 29, 2007, the instant petition was filed requesting that the subject non-provisional design application be converted to a provisional application. Petitioner maintains that when the application papers were filed, the application was mistakenly identified as a non-provisional design application.

It is noted that 37 CFR 1.53(c)(2) provides that:

> (2) An application for patent filed under paragraph (b) of this section may be converted to a provisional application and be accorded the original filing date of the application filed under paragraph (b) of this section. The grant of such a request for conversion will not entitle applicant to a refund of the fees that were properly paid in the application filed under paragraph (b) of this section. Such a request for conversion must be accompanied by the processing fee set forth in § 1.17(q) and be filed prior to the earliest of:
>
> (i) Abandonment of the application filed under paragraph (b) of this section;
>
> (ii) Payment of the issue fee on the application filed under paragraph (b) of this section;
>
> (iii) Expiration of twelve months after the filing date of the application filed under paragraph (b) of this section; or
>
> (iv) The filing of a request for a statutory invention registration under § 1.293 in the application filed under paragraph (b) of this section.

A review of the application papers reveals that the instant request under 37 CFR 1.53(c)(2) was filed prior to the abandonment of the application, payment of the issue fee, and before the expiration of twelve months from the filing date of the application. The request to convert the subject non-provisional application to a provisional application is granted accordingly.

The subject application will be directed to the Office of Patent Application Processing where the

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application will be converted to a provisional application and accorded a filing date of September 10, 2007. The Office of Patent Application Processing will issue a filing receipt for the provisional application.

Any inquiries related 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GRAHAM P. EATWELL
6 SOUTHGATE COURT
ANNAPOLIS MD 21401

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JUL 10 2009

OFFICE OF PETITIONS

In re Application of :
Graham Paul Eatwell :
Application No. 61/212,848 : DECISION GRANTING PETITION
Filed: April 16, 2009 :
Attorney Docket No: GPE 10P-2 :

This is a decision on the petition filed June 1, 2009 under 37 CFR 1.53(e)(2), in response to the Notice Of Omitted Items ("Notice") mailed May 21, 2009, which is treated under 37 CFR 1.182.

The instant application was filed April 16, 2009 and a filing date was accorded. However, a "Notice" was mailed May 21, 2009 advising, that Figures 1-7, described in the specification appeared to have been omitted.

Petitioner asserts that Figures 1-7 were among the papers filed on April 16, 2009, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included five sheets of drawings, and bears a United States Patent and Trademark Office date-stamp of April 16, 2009. However, only one (1) sheet of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figure 1-7 were on the sheets that appeared to have been omitted. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

Given the basis for granting the petition, no petition fees are due and thus, deposit account no. 50-2120 will be credited in the amount of $400.00.

This matter is being referred to the Office of Patent Application Processing for further processing, using the application papers received in the Office on April 16, 2009 and the drawing figures submitted on petition June 1, 2009.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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DIW Jun-09

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER MN 55082

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Carol A. Delavergne :
Application Number: 61/212948 : DECISION ON PETITION
Filing Date: 04/17/2009 :
Attorney Docket Number: :
DLV0026/P1 :

This is a decision on the petition filed on June 15, 2009, requesting that the above-identified application be accorded a filing date of April 17, 2009, with Figures 16 and 22 described in the specification as a part of the original disclosure.

On April 17, 2009, the application was filed.

On May 18, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Omitted Item(s) In a Provisionla Application stating that the application had been accorded a filing date of April 17, 2009, but that Figures 16 and 22 described in the specification appeared to have been omitted from the application.

In response, on June 15, 2009, the present petition was filed, accompanied by a copy of one (1) sheet of drawings containing a drawing Figure. Additionally, petitioner included an itemized, stamped postcard receipt itemizing the filing of, *inter alia*, 51 Sheets of drawings.[1]

A review of the record reveals that 49 sheets of drawings were received on April 17, 2009. In view of petitioner's postcard showing receipt of 51 sheets of drawings, the showing of record is that two (2) sheets of drawings were lost after receipt at the

[1] As the figure label is not legible on the copy provided with the petition, it is unclear whether the sheet of drawing provided contains Figure 16 or Figure 22. The drawings must be properly and legible numbered, see 37 CFR 1.84.

USPTO. Only one (1) sheet containing drawings has been provided with the subject petition.

As such, the petition is dismissed without prejudice to reconsideration pending submission of copies of both of the missing sheets of drawings containing Figures 16 and 22, respectively.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.[2]

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
ATTN: Office of Petitions
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

[2] 37 CFR 1.181(f).

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KAGAN BINDER, PLLC
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STILLWATER MN 55082

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
Carol A. Delavergne :
Application Number: 61/212948 : DECISION ON PETITION
Filing Date: 04/17/2009 :
Attorney Docket Number: :
DLV0026/P1 :

This is a decision on the renewed petition filed on June 14, 2009, requesting that the above-identified application be accorded a filing date of April 17, 2009, with Figures 16 and 22 described in the specification as a part of the original disclosure.

On April 17, 2009, the application was filed.

On May 18, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Omitted Item(s) In a Provisional Application stating that the application had been accorded a filing date of April 17, 2009, but that Figures 16 and 22 described in the specification appeared to have been omitted from the application.

In response, on June 15, 2009, the initial petition was filed, accompanied by a copy of one (1) sheet of drawings containing a drawing Figure. Additionally, petitioner included an itemized, stamped postcard receipt itemizing the filing of, *inter alia*, 51 Sheets of drawings. On June 29, 2009, a decision dismissing the petition was mailed.

On July 14, 2009, the subject renewed petition was filed, accompanied by, inter alia, two sheets of drawings.

A review of the record reveals that 49 sheets of drawings were received on April 17, 2009. In view of petitioner's postcard showing receipt of 51 sheets of drawings, the showing of record is that two (2) sheets of drawings were lost after receipt at the

USPTO. Two (2) sheets of drawings have been provided with the subject renewed petition.

Although the figure labels are not legible on the two sheets, the two sheets of drawings are accepted, based on counsel's assertion, as containing Figures 16 and 22, respectively.

In view of the above, the petition is granted to the extent the application papers as filed included 51 sheets of drawings.

The petition fee will be credited to counsel's deposit account.

The application will be processed with the copies of two (2) drawing sheets supplied on July 14, 2009, as a part of the original disclosure.

The application is being referred to the Office of Patent Application Processing for further processing with a filing date of April 17, 2009, using the application papers filed on that date, and the copy of two (2) sheets of drawings, asserted to contain Figures 16 and 22, supplied with the present petition.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Barbara A. Shimei
Director, Patents & Licensing
Bayer HealthCare LLC - Pharmaceuticals
555 White Plains Road, Third Floor
Tarrytown NY 10591

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Wilhelm :
Application No. 61/212,988 :
Filed: April 17, 2009 :
Attorney Docket No. 5316 PROV :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The application became abandoned July 9, 2009 for failure to timely submit a proper reply to the Notice of File Missing Parts of Provisional Application (Notice) mailed May 8, 2009. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed January 22, 2010.

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 has been carefully reviewed and found in compliance with the requirements set forth above.

Petitioner is reminded that a provisional application may be abandoned prior to 12 months from its filing date for failure to reply to an Office requirement (e.g., failure to submit the filing fee and/or cover sheet). Applicant may petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than 12 months from the filing date of the provisional application where the delay was unavoidable or unintentional. It would be permissible to file a petition for revival later than 12 months from the filing date of the provisional application but only to revive the application for the 12-month period following the filing of the provisional application. Thus, even if the petition were granted to establish the

pendency up to the end of the 12-month period, the provisional application would not be considered pending after 12 months from its filing date

In view thereof, the petition to revive is hereby GRANTED.

This application is being directed 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

COMMISSIONER FOR PATENTS
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Barbara A. Shimei
Director, Patents & Licensing
Bayer HealthCare LLC - Pharmaceuticals
555 White Plains Road, Third Floor
Tarrytown NY 10591

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Wilhelm :
Application No. 61/212,988 : ON PETITION
Filed: April 17, 2009 :
Attorney Docket No. 5316 PROV :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The application became abandoned July 9, 2009 for failure to timely submit a proper reply to the Notice of File Missing Parts of Provisional Application (Notice) mailed May 8, 2009. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed January 22, 2010.

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 has been carefully reviewed and found in compliance with the requirements set forth above.

Petitioner is reminded that a provisional application may be abandoned prior to 12 months from its filing date for failure to reply to an Office requirement (e.g., failure to submit the filing fee and/or cover sheet). Applicant may petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than 12 months from the filing date of the provisional application where the delay was unavoidable or unintentional. It would be permissible to file a petition for revival later than 12 months from the filing date of the provisional application but only to revive the application for the 12-month period following the filing of the provisional application. Thus, even if the petition were granted to establish the

pendency up to the end of the 12-month period, the provisional application would not be considered pending after 12 months from its filing date

In view thereof, the petition to revive is hereby GRANTED.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DIW Oct-09

c/o JULLIEN DESIGN
4955 Prince William PKWY
Woodbridge VA 22192

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Application of :
Robert G. Jullien :
Application No.: 61/213,300 : ON PETITION
Filed: May 27, 2009 :
Attorney Docket Number: None :

This is a decision on the communication filed July 22, 2009, which is being 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 27, 2009.

The petition is **GRANTED**.

The application was filed on May 27, 2009, without drawings. Accordingly, on June 12, 2009, the Office of Data Management, Application Assistance Unit 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 July 22, 2009, the present petition was filed. Petitioner concedes that the application was filed without drawings, but states that "the nature of my invention and my current disclosure...fully disclose the invention in a manner that any person skilled in the art would have no doubt as to the nature, novelty and scope of my invention."

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 statement in the petition will be construed to mean that petitioner 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 12, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of May 27, 2009, without drawings as a part of the original disclosure.

No petition fee is due. The petition fee will be refunded in due course.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to May 27, 2009.

Telephone inquiries specific to this matter 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

JOHN PRESCOTT
P. O. BOX 383
VERNON NY 13476

MAILED

JUN 3 0 2010

OFFICE OF PETITIONS

In re Application of :
PRESCOTT and TUOMAN :
Application No. 61/215,517 : ON PETITION
Filed: 05/07/2009 :
Title: TRAILER HITCH COVER WITH A :
SWING-DOWN DOOR :

This is in response to the communication, filed March 4, 2010, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On June 2, 2009, the Office mailed a Notice to File Missing Parts of Provisional Application, which set a two month extendable period to reply. The application became abandoned on August 3, 2009, for failure to submit a timely response to the Notice to File Missing Parts. A Notice of Abandonment was mailed on February 18, 2010.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice to File Missing Parts mailed June 2, 2009. The Office notes that the application was filed by joint inventors Prescott and Tuoman. However, only inventor Prescott signed the present petition.

37 CFR 1.33(b) states in pertinent part:

> 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 registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The Office records do not indicate that applicants, Prescott and Tuoman, filed a power of attorney in the present application or assigned their interests. Therefore, all of the applicants must sign a petition in a joint application where the applicants have not given power of attorney to a registered attorney or agent. In the present case, only Prescott signed the petition. There is no indication that Tuoman gave power of attorney to Prescott to prosecute the application on his behalf. Accordingly, the petition cannot be accepted as it is not properly signed by a person having authority to prosecute the application without the signature of the other applicant, Tuoman. Consequently, the present petition will not be addressed on the merits until petitioner files a new petition signed by both Prescott and Tuoman. The petition to withdraw the holding of abandonment is **dismissed**.

Although the Office will not render a decision on the present petition, the Office recognizes that petitioner is acting in a pro se capacity. For this reason, the Office reminds petitioner that in order to meet requirements to withdraw the holding of abandonment for non-receipt of the Notice to File Missing Parts, 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, the petitioner must explain his system for keeping track of patent matters - where the 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 Notice to File Missing Parts was not entered into that system. The petitioner should provide the USPTO with copies of any records or other methods, **which were in existence during the relevant period** (from June 2, 2009 to August 2, 2009), where petitioner would have entered the receipt date of the Notice to File Missing Parts had he received it. For example, petitioner may submit a copy of the outside of a file or a calendar maintained by petitioner **during the relevant period**, if these documents are available. Any docketing records created after the date of abandonment of the application are not acceptable proof of non-receipt of an Office communication. Furthermore, petitioner must include a statement from himself, or any other person at the address who handles correspondence from the USPTO, 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 during the period when he would have received the Notice to File Missing Parts.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application based on unintentional delay instead of filing a petition under 37 CFR 1.181 to withdraw the holding of abandonment 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 required reply as set forth in the Notice to File Missing Parts;

(2) The petition fee as set forth in 37 CFR 1.17(m), currently $810.00 for a small entity; and,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The Office notes that a provisional application will automatically become abandoned by statute 12 months after its filing date. A petitioner may file petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than 12 months from the filing date of the provisional application. Thus, a petitioner may file a petition to revive (or a petition to withdraw the holding of abandonment) later than 12 months from the filing date of the provisional application but only to revive the application for the 12-month period following the filing of the provisional application. Therefore, even if a petition was granted to establish the pendency up to the end of the 12-month period, the instant provisional application would not be considered pending after 12 months from its filing date (i.e. May 8, 2010).

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of his patent matters. 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) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64 and Copy of the Notice to File Missing Parts

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/215,517	05/07/2009	John Edwin Prescott	

CONFIRMATION NO. 4370

JOHN PRESCOTT
P. O. BOX 383
VERNON, NY 13476

FORMALITIES LETTER

OC000000036270863

Date Mailed: 06/02/2009

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 compact disc filed in the application contain non-ASCII files. If a directory of the compact disc could be printed, it is attached and the non-ASCII files are marked on the directory. Applicant is 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)).
- Only a single copy of each compact disc was submitted. Applicant is required 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)).

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- *The compact discs already submitted fail to comply with the labeling requirements of 37 CFR 1.52(e)(6) which requires each disc be labeled "Copy 1" and "Copy 2", respectively; and for replacement compact discs "COPY 1 REPLACEMENT MM/DD/YYYY" (with the month, day and year of creation indicated), and "COPY 2 REPLACEMENT MM/DD/YYYY". Any replacement compact discs submitted should be accompanied by a certification as required by 37 CFR 1.52(e) that each disc of a duplicate set is identical to the other disc of the set. Any new compact discs submitted must comply with the labeling requirements.*

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.

/amanalac/

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 13 2010

OFFICE OF PETITIONS

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of Grimes :
Application No. 61/216,342 : Decision on Petition
Filing Date: May 16, 2009 :
Attorney Docket No. 10-40044-USPR :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2010, to revive the above-identified application and the petition under 37 CFR 1.182, filed May 11, 2010, requesting expedited treatment of the petition under 37 CFR 1.137(b).

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

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

The inventor filed the application on May 16, 2009.

The Office mailed a Notice to File Missing Parts setting a two-month time period for reply on June 16, 2009.

The Office did not receive a reply to the June 16, 2009 Notice. As a result, the application became abandoned on Tuesday, June 18, 2009.

Office assignment records indicate the inventor executed an agreement assigning the application to Knowaste LLC on March 18, 2010.

The petition under 37 CFR 1.137(b) and a power of attorney were filed March 30, 2010.

The petition under 37 CFR 1.182 was filed May 11, 2010.

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 item (1) above, Petitioner has submitted payment of $110 for the filing fee and payment for $25 for the required surcharge. However, $105 was paid for the filing fee on May 16, 2009, and the Notice to File Missing Parts only required $5 to complete the filing fee. Therefore, the Office has credited $105 back to Petitioner's credit card.

As to item (2) above, Petitioner has submitted the $810 petition fee.

As to item (3) above, 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. William McNichol Jr. signed the petition. McNichol was not a representative of record at the time the application became abandoned. Therefore, it appears McNichol 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 McNichol 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 item (4) above, a terminal disclaimer is unnecessary.

The Office of Patent Application Processing will be informed of the instant decision and the application will be further processed to the extent necessary in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[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
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www.uspto.gov

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of Grimes :
Application No. 61/216,363 : Decision on Petition
Filing Date: May 16, 2009 :
Attorney Docket No. 10-40045-USPR :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2010, to revive the above-identified application and the petition under 37 CFR 1.182 requesting expedited treatment of the petition under 37 CFR 1.137(b).

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

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

The inventor filed the application on May 16, 2009.

The Office mailed a Notice to File Missing Parts setting a two-month time period for reply on June 3, 2009.

The inventor filed a reply on Wednesday, August 5, 2009. However, the reply was untimely because the reply did not include payment for an extension of time.

The Office mailed the inventor a Notice of Incomplete Reply on August 21, 2009.

The Office did not receive a reply to the Notice of Incomplete Reply or payment for any extension of time. As a result, the application became abandoned on August 4, 2009.

Office assignment records indicate the inventor executed an agreement assigning the application to Knowaste LLC on March 18, 2010.

A power of attorney was filed by the assignee on March 30, 2010.

The Office mailed a Notice of Abandonment to the new address of record on April 29, 2010.

The petition under 37 CFR 1.137(b) and the petition under 37 CFR 1.182 were filed by an attorney of record on May 11, 2010.

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 item (1) above, Petitioner has submitted a $25 surcharge with the petition as the reply. However, the $25 surcharge was previously paid on August 5, 2009. Therefore, the new payment of $25 is unnecessary and $25 has been credited back to Petitioner's credit card.

As to item (2) above, Petitioner has submitted the $810 petition fee.

As to item (3) above, 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. William McNichol Jr. signed the petition. McNichol was not a representative of record at the time the application became abandoned. Therefore, it appears McNichol 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 McNichol 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 item (4) above, a terminal disclaimer is unnecessary.

The Office of Patent Application Processing will be informed of the instant decision and the application will be further processed to the extent necessary in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[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
www.uspto.gov

Paul Z. Lee
3108 Sharer Road
Tallahassee FL 32312

MAILED

JUL 30 2009

OFFICE OF PETITIONS

In re Application of :
Paul Zi-Fang Lee :
Application No. 61/216,489 : DECISION ON PETITION
Filed: May 18, 2009 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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

35 U.S.C. 102 states:

> (a)Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing
> a petition under paragraphs (c) or (d) of this section
> with a showing which, in the opinion of the Director, will justify so advancing it.
> (b)Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason,
> may be advanced for examination.
> (c)A petition to make an application special may be filed without a fee if the basis for the petition is:
> (1)The applicant's age or health; or
> (2)That the invention will materially:
> (i)Enhance the quality of the environment;
> (ii)Contribute to the development or conservation
> of energy resources; or
> (iii) Contribute to countering terrorism.

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

The instant petition has been filed in a provisional application. Provisional applications are not examined and thus, cannot be advanced out of turn for examination. See MPEP 201.04(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 FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Ron Abelson at 571-272-3165 or the undersigned at 571-272-7099.

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

David Bucel
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

JOSEPH P KENNEDY
11127 ELMVIEW PLACE
GREAT FALLS VA 22066

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Kennedy, et al.	:	
Application No. 61/217,001	:	ON PETITION
Filed: May 27, 2009	:	
Attorney Docket No. KEN01 004	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 16, 2010.

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)." No further fee is required for a renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above application became abandoned for failure to file a reply to the Notice to File Missing Parts of Provisional Application mailed on July 16, 2009. The Notice set an extendable period for reply of two months for applicants to submit the missing $10 for the statutory basic filing fee, together with a surcharge for its late filing. No fees having been received, the application became abandoned on September 17, 2009. The Office mailed a Notice of Abandonment on March 24, 2010.

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 requirement (3).

Petitioner has not submitted a statement signed by both of the inventors. As set forth in 37 CFR 1.33(b), all papers filed in a patent application must be signed by all of the inventors, unless the inventors are represented by a registered patent attorney or agent.

Accordingly, on renewed petition, petitioner must submit a petition signed by both of the inventors.

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

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

JOSEPH P KENNEDY
11127 ELMVIEW PLACE
GREAT FALLS VA 22066

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Kennedy, et al.	:	
Application No. 61/217,001	:	ON PETITION
Filed: May 27, 2009	:	
Attorney Docket No. KEN01 004	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed May 26, 2010.

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 July 16, 2009. The Notice set an extendable period for reply of two months for applicants to submit the missing $10 for the statutory basic filing fee, together with a surcharge for its late filing. No fees having been received, the application became abandoned on September 17, 2009. The Office mailed a Notice of Abandonment on March 24, 2010. Applicants filed a petition to revive under 37 CFR 1.137(b) on April 16, 2010. However, the petition was dismissed in a decision mailed on May 24, 2010. The petition was dismissed because applicants did not include the signature of both inventors on the petition.

With the instant renewed petition, petitioner has presented a petition signed by both of the inventors. The other requirements for a grantable petition were previously satisfied with the petition filed April 16, 2010.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

MAY 17 2010

OFFICE OF PETITIONS

KEIJUN KAMIO
2200 N D'ANDREA PKY #2022
SPARKS NV 89434

In re Application of :
Keijun Kamio :
Application No. 61/217,201 : DECISION ON PETITION
Filed: May 26, 2009 :
Attorney Docket No: 300028-00005

This is a decision on the petition filed March 16, 2010, to accord the above-identified application a filing date of May 26, 2009.

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

Application papers in the above-identified application were filed on May 26, 2009, without a specification. Accordingly, on January 28, 2010, 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 May 26, 2009.

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 May 26, 2009 filing date with no specification as a part of the original disclosure of the application.

The matter is being forwarded to the Office of Initial Patent Examination for correction of the filing date to May 26, 2009, 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

cc: Timothy D. Casey
SilverSky Group LLC
5422 Longley Lane
Suite B
Reno, NV 89511

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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CALIFORNIA INSTITUE OF TECHNOLOGY
1200 E. CALIFORNIA BLVD.
M/C 201-85
PASADENA CA 91125

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of :
Steven M. JONES, et al :
Application No. 61/217,275 : ON PETITION
Filed: May 29, 2009 :
Attorney Docket No. CIT-5374-P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2010, 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 June 19, 2009. The Notice set a period for reply of **two (2) months** from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 20, 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).

With respect to item (1): The reply filed with the petition dated March 16, 2010, cannot be accepted as complying with the requirements as set out in 37 CFR 1.137(b). In this regard, the reply does not include a proper provisional application cover sheet or an application data sheet, as indicated in the Notice dated June 19, 2009. Accordingly, the petition is considered to not contain a proper reply and cannot be granted at this time.

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.

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) 272-6735.

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

OCT 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Puria et al.	:	
Application Number: 61/217801	:	DECISION DISMISSING PETITION
Filing Date: 06/04/2009	:	
Attorney Docket Number: 026166-002310US	:	

This is a decision in reference to the petition under 37 CFR 1.10(c) filed on August 13, 2009, requesting that the above-identified application be accorded a filing date of June 3, 2009, rather than the currently-accorded filing date of June 4, 2009.

Petitioners aver that the application was deposited as with the United States Postal Service (USPS) using "Express Mail Post Office to Addressee" Service on June 3, 2009. In support, petitioner has supplied a copy of Express Mail Customer Label No. EV530887340US, the same Express Mail Label Number placed in the Provisional Application for Patent Cover Sheet present on filing. Petitioner concedes that the "date in" on the Express Mail label is illegible, but has provided a copy of the USPS sales receipt showing postage was paid on June 3, 2009.

Paragraph (a) of 37 CFR 1.10 states that:

> (1) Any correspondence received by the Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the USPTO on the date of deposit with the USPS.
>
> (2) The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition lacks the showing required by item (3) above. In particular, the "date-in" on the Express Mail label is not legible as June 03, 2009.[1] As stated in 37 CFR 1.10(a)(2), if the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date.

Further, the sales receipt does not serve as evidence under 37 CFR 1.10 because the sales receipt indicates only that petitioners paid for the Express Mail shipment on June 3, 2009, not that the Express Mail envelope was accepted by the USPS as deposited on that date.

Petitioners may wish to consider requesting evidence from the USPS, such as a letter from the USPS stating that the Express

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[1] The Office attempted but has been unable to verify the date of acceptance by the USPS via the USPS Track and Confirm Internet database.

Mail shipment identified above was in fact deposited with the USPS in Express Mail Post Office to Addressee Service on June 3, 2009.

Accordingly, the petition is dismissed. However, such dismissal is without prejudice to reconsideration pending submission of a statement from the USPS or other proper evidence showing that the application was accepted by the USPS on June 3, 2009.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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FEB 17 2010

OFFICE OF PETITIONS

MAILED

FEB 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Puria et al.	:	
Application Number: 61/217801	:	DECISION GRANTING PETITION
Filing Date: 06/03/2009	:	
Attorney Docket Number: 026166-002310US	:	

This is a decision in reference to the "RESPONSE TO DECISION DISMISSING PETITION UNDER 37 CFR §1.10(c)," filed on December 7, 2009, requesting that the above-identified application be accorded a filing date of June 3, 2009, rather than the currently-accorded filing date of June 4, 2009.

Petitioners again aver that the application was deposited as with the United States Postal Service (USPS) using "Express Mail Post Office to Addressee" Service on June 3, 2009. In support, petitioner has supplied a copy of Express Mail Customer Label No. EV530887340US, the same Express Mail Label Number placed in the Provisional Application for Patent Cover Sheet present on filing. Petitioner concedes, in the initial petition, that the "date in" on the Express Mail label is illegible.

Petitioners have also provided, with the subject renewed petition, a memorandum from the USPS signed by Denise Rocchi, Supervisor, Customer Service, at the Hamilton Post Office, Palo Alto, CA, stating that the Express Mail package with the above-referenced number was deposed with the USPS on June 3, 2009.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on June 3, 2009. Accordingly, this application is entitled to a filing date of June 3, 2009.

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

This application is referred to the Office of Patent Application Processing for correction of the filing date to June 3, 2009.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3231. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VALAUSKAS & PINE LLC
150 SOUTH WACKER DRIVE
SUITE 620
CHICAGO, IL 60606

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Heileman et al.	:	
Application No. 61/217,882	:	DECISION GRANTING
Filed: June 5, 2009	:	PETITION
Attorney Docket No. 7805/53	:	

This is a decision on the petition filed August 10, 2009, requesting that the above-identified application be accorded a filing date of June 5, 2009, rather than the presently accorded date of June 4, 2009. 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 June 5, 2009, pursuant to 37 CFR 1.10. The Express Mail label receipt No. EM320167762US bears a handwritten "date-in" of June 4, 2009. 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 June 5, 2009. Petitioner has also submitted a copy of a postal service sales receipt, which shows Express Mail label No. EM320167762US as having a receipt date of June 5, 2009.

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 June 5, 2009 at 2:19 p.m. at the Chicago, IL USPS. Accordingly, this application is entitled to a filing date of June 5, 2009, and has been so accorded.

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

It is noted that while the petition is signed by the attorney of record, the registration number provided is not correct.

The application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to June 5, 2009 and issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/Liana Walsh/
Liana Walsh
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
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VALAUSKAS & PINE LLC
150 SOUTH WACKER DRIVE
SUITE 620
CHICAGO, IL 60606

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Lenz Thomas	:	
Application No. 61/217,888	:	DECISION GRANTING
Filed: June 5, 2009	:	PETITION
Attorney Docket No. 2480/44	:	

This is a decision on the petition filed August 10, 2009, requesting that the above-identified application be accorded a filing date of June 5, 2009, rather than the presently accorded date of June 4, 2009. 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 June 5, 2009, pursuant to 37 CFR 1.10. The Express Mail label receipt No. EM320167776US bears a handwritten "date-in" of June 4, 2009. 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 June 5, 2009. Petitioner has also submitted a copy of a postal service sales receipt, which shows Express Mail label No. EM320167776 as having a receipt date of June 5, 2009.

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 June 5, 2009 at 2:19 p.m. at the Chicago, IL USPS. Accordingly, this application is entitled to a filing date of June 5, 2009, and has been so accorded.

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

It is noted that while the petition is signed by the attorney of record, the registration number provided is not correct.

This matter is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to June 5, 2009 and issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH 99544
ISRAEL

In re Application of Gardin et al. :
Application No. 61/218,280 : Decision on Petition
Filing Date: June 18, 2009 :
Attorney Docket No. 1838-USP :

This is a decision on the paper filed on June 18, 2009, which is being treated as a petition requesting that the above-identified provisional application be accorded a filing date of June 18, 2009.

The petition is **granted**.

Application papers were filed June 18, 2009. The specification filed on June 18, 2009, described drawings containing Figures 1-8, but no drawings were filed on June 18, 2009.

On July 1, 2009, the Office mailed a Notice 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.

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 June 18, 2009.

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 July 1, 2009, was mailed in error and is hereby withdrawn.

The application will be accorded the June 18, 2009 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 will be credited back 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 June 18, 2009, 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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Jody Vykoukal, et al.
Application No. 61/220,002
Filed: June 24, 2009
Attorney Docket No. 856-0010PUS1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 24, 2010.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C.**
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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ATTN: GLENDA WOLFE
BUILDING 6 BRAZOS EAST SUITE 100
5000 RIVERSIDE DRIVE
IRVING TX 75039

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Xu, et al.	:	
Application No. 61/220,039	:	ON PETITION
Filed: June 24, 2009	:	
Attorney Docket No. 35898-US-PRV	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 25, 2010.

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 July 14, 2009. The Notice set an extendable period for reply of two months for applicants to submit the missing provisional application cover sheet, together with a surcharge for its late filing. No reply having been received, the application became abandoned on September 15, 2009. The Office mailed a Notice of Abandonment on March 24, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a provisional application cover sheet, together with the surcharge for its late filing.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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BROOKE SCHUMM III
DANEKER, MCINTIRE, SCHUMM, PRINCE, GOLDSTEIN ET AL
ONE NORTH CHARLES STREET
SUITE 2450
BALTIMORE MD 21201

MAILED

FEB 24 2010

OFFICE OF PETITIONS

In re Application of :
Timothy F. Guilford :
Application No. 61/220,360 : DECISION ON PETITION
Date Deposited: June 25, 2009 :
Attorney Docket No. GLFD-09-041 :

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

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on August 27, 2009, a Notice of Incomplete Provisional Application was mailed, stating that the application had not been accorded a filing date because the application had been deposited without drawings, and that applicant should reconsider whether drawings are necessary under 35 U.S.C. 113 (first sentence). A Notice of Abandonment under 37 CFR 1.53 (f) OR (g) was improperly sent on December 4, 2009. A Notice of Termination of Proceedings Under 37 CFR 1.53(e) should have been sent instead, stating that the application did not meet the requirements of 37 CFR 1.53(b), (c), or (d) to be entitled to a filing date, and the filing error(s) specified in the Notice mailed on August 27, 2009 were not timely corrected (37 CFR 1.53(e)). Accordingly, the proceedings on the above-identified application are terminated. Further, since no filing date was accorded, the application did not become abandoned and cannot be revived. As such, the petition is dismissed as moot.

Accordingly, the $810.00 petition fee will be refunded to petitioner's credit card in due course.

However, the required drawings were received on December 7, 2009. Accordingly this application is being forwarded to the Office of Patent Application Processing for further processing with **a filing date of December 7, 2009.**

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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MARVELL SEMICONDUCTOR, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5488 Marvell Lane
Santa Clara CA 95054

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of Mokatren :
Application No. 61/220,699 : Decision on Petition
Filing Date: June 26, 2009 :
Attorney Docket No. MP3291PR :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2010, to revive the application.

The petition is **granted**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts issued July 23, 2009, which set a period for reply of two (2) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the application became abandoned on September 24, 2009. A Notice of Abandonment was issued March 31, 2010.

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 item (1), petitioner has submitted a reply to the Notice to File Missing Parts in the form of an application data sheet accompanied with the required surcharge fee.

As to item (2), petitioner has submitted the required petition fee of $1620.

As to item (3), 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.

As to item (4), a terminal disclaimer is unnecessary.

The Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Application Processing will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Steven Brantley at (571) 272-3203 or in his absence to Amy Gandhi at (571) 272-6699.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON MA 02110-2131

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of :
Arendt, et al. :
Application No. 61/222,520 : ON PETITION
Filed: July 2, 2009 :
Attorney Docket No. 048262-065600-P :
For: METHOD FOR THE PRODUCTION OF A GUM BASE

This is a decision on the correspondence entitled, "RESPONSE TO NOTICE OF INCOMPLETE PROVISIONAL APPLICATION AND PETITION FOR FILING DATE AND REFUND OF PETITION FEE," filed July 31, 2009, to accord a filing date of July 2, 2009 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 July 2, 2009. However, on July 29, 2009, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" requiring drawings of applicants' 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 July 2, 2009 refers to drawing figures.

Petitioners request that the application be accorded a July 2, 2009 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 July 29, 2009 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of July 2, 2009 without drawing figures. The petition is **granted**.

Pursuant to petitioners' authorization, the $400.00 petition fee will be credited to petitioners' deposit account.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **July 2, 2009** and the mailing of a filing receipt reflecting the July 2, 2009 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

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PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Wood, et al. :
Application No. 61/222,657 : ON PETITION
Filed: July 2, 2009 :
Attorney Docket No. PTDW012 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2010, 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 July 17, 2009, which set a shortened two (2) month period for reply. No response was received within the allowable period and the application became abandoned on September 18, 2010. A Notice of Abandonment was mailed March 25, 2010.

The response to the Notice to File Missing Parts of Provisional Application filed April 2, 2010, is noted and made of record.

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

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OFFICE OF PETITIONS

c/o JULLIEN DESIGN
4955 Prince William PKWY
Woodbridge VA 22192

In re Application of :
Ian Taylor :
Application No.: 61/222,772 : ON PETITION
Filed: July 2, 2009 :
Attorney Docket No.: CPS3.8-010 :

This is a decision on the communication filed September 8, 2009, which is being treated as a petition under 37 CFR 1.182 requesting that the above-identified provisional application, without drawings, be accorded a filing date of July 2, 2009.

The petition is **GRANTED**.

The application was filed on July 2, 2009, without drawings. Accordingly, on July 15, 2009, the Office of Data Management, Application Assistance Unit 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 8, 2009, the present petition was filed. Petitioner concedes that the application was filed without drawings, but argues that the basis for denying the filing date is inappropriate. Petitioner states that "since the application was filed without claims, it would not be possible for anyone to identify the subject matter 'sought to be patented'." Further, petitioner states that "[t]he omitted drawing...as it was described in the specification, does not appear to pertain to all subject matter that has been disclosed. Therefore petitioner requests that the application be accorded a filing date.

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 statement in the petition will be construed to mean that petitioner is asserting that drawings are not necessary for a filing date in this application. If this is not a correct interpretation of the statement, then applicant must promptly notify the Office. Drawings will not be further considered as a part of this case.

In view of the above, the "Notice" mailed July 15, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of July 2, 2009, without drawings as a part of the original disclosure.

Under the circumstances of this case, no petition fee is due. Accordingly the petition fee is being refunded in due course.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to July 2, 2009.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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IRVINE CA 92614

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OCT 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Vadim Olshansky	:	
Application No. 61/223,667	:	RESPONSE TO PETITION
Filed: July 7, 2009	:	
Attorney Docket No. NOMDX.038PR	:	

This is a response to the petition under 37 CFR 1.59(b), filed September 3, 2009, which is treated as a petition under 37 CFR 1.183 to expunge portions of the original specification from the above identified provisional application. This is also a decision on the petition under 37 CFR 1.182, filed September 3, 2009, to expedite the petition to expunge

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

The petition under 37 CFR 1.183 is **dismissed**.

In regard to the petition to expedite the petition to expunge, the requirements of 37 CFR 1.182 to expedite the petition to expunge have been satisfied. Accordingly, the request to expunge information has been processed promptly.

In regard to the requested expungement, the petition asserts that confidential, proprietary, and trade secret information was inadvertently presented in the specification filed with the above identified provisional application. Applicant requests that this information, which appears on pages 2, 3, and 5-7 of the original specification, be expunged.

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.

However, MPEP 724.05 IV explains that this provision of 37 CFR 1.59(a)(2) may be waived under 37 CFR 1.183 where an extraordinary situation exits in which justice requires the requested expungement. Accordingly, the petition is recognized as a petition under 37 CFR

1.183 to waive the provision of 37 CFR 1.59(a)(2) that prohibits expunging portions of the original specification.

The presence of the confidential, proprietary, and trade secret information in the original specification, as discussed by Applicant, represents an extraordinary situation in which justice requires the requested expungement. However, the original specification will not be removed from the record in its entirety. Rather, the original specification may be replaced by a substitute specification filed in compliance with 37 CFR 1.125 in which the confidential, proprietary, and trade secret information is redacted, as set forth in exhibit B of the petition, and the remainder of the specification is not disturbed. Therefore, such a substitute specification must be made of record before the original specification will be expunged.

In addition, only $200.00 was paid due to the erroneous assumption that the petition was properly filed under 37 CFR 1.59. Since the petition was treated as a petition under 37 CFR 1.183, a fee of $400.00 is required. An additional $200.00 has been charged to Deposit Account No. 11-1410, as authorized

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Vadim Olshansky :
Application No. 61/223,667 : RESPONSE TO PETITION
Filed: July 7, 2009 :
Attorney Docket No. NOMDX.038PR :

This is a response to the renewed petition under 37 CFR 1.183, filed November 2, 2009, to waive the provisions of 37 CFR 1.59 that prohibit the original specification from being expunged and expunge the original specification from the above identified provisional application.

The petition is **granted**.

Petitioner asserts that confidential, proprietary, and trade secret information was inadvertently presented in the specification filed with the above identified provisional application. Petitioner requests that this information, which appears on pages 2, 3, and 5-7 of the original specification, be expunged. This request was previously dismissed since there is no basis to remove the entire original specification from the record. The renewed petition presents a substitute specification in which the confidential, proprietary, and trade secret information appearing on pages 2, 3, and 5-7 is redacted.

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.

However, MPEP 724.05 IV explains that this provision of 37 CFR 1.59(a)(2) may be waived under 37 CFR 1.183 where an extraordinary situation exits in which justice requires the requested expungement.

The presence of the confidential, proprietary, and trade secret information in the original specification, as discussed by Applicant, represents an extraordinary situation in which justice requires the requested expungement. Therefore, the original specification will be expunged from the record and replaced by the substitute specification filed with the renewed petition.

The official record for the above identified application is maintained as an electronic Image File Wrapper (IFW) and there is no paper record from which the information can be physically removed. The original specification and Exhibit A of the petition filed September 3, 2009 will be "closed" in the electronic IFW and removed from the listing of publicly available documents. Except for Exhibit A, the petition filed September 3, 2009 will remain on the record since it does not present confidential, proprietary, and trade secret information. Also, the renewed petition and petition decisions will remain on the record since they do not present confidential, proprietary, and trade secret information.

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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POLSINELLI SHUGHART, PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

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MAY 06 2010

OFFICE OF PETITIONS

In re Application of
Robert A. White
Application No. 61/223,893
Filed: July 8, 2009
Attorney Docket No. 40111-PRO2

DECISION GRANTNG PETITION

This is a decision on the petition filed October 5, 2009 requesting that the above-identified provisional application be accorded a filing date of July 8, 2009.

The application was deposited on July 8, 2009. However, on August 4, 2009, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (Notice) requiring drawings and stating that the filing date of the application would be the date of receipt of the omitted drawings.

In response, on October 5, 2009, the present petition was filed. Petitioner states that the drawings are not necessary for an understanding of the subject matter and, therefore, the application should be accorded the July 8, 2009 filing date without the drawings.

It is noted that the petition contains a statement that the drawings are not necessary for an understanding of the invention and the petition is signed by the attorney of record. Therefore, the petition is **granted**.

This application file is being referred to the Office of Patent Application Processing for further **processing with a filing date of July 8, 2009**.

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

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MENTOR GRAPHICS CORP.
PATENT GROUP
8005 SW BOECKMAN ROAD
WILSONVILLE OR 97070-7777

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Maxim Smirnov et al. :
Application No. 61/224,470 : ON PETITION
Filed: July 10, 2009 :
Attorney Docket No. 10575-PROV/RAD :

This is a decision in response to the petition filed May 14, 2010, to withdraw the holding of abandonment, under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

The file record discloses that the Notice to File Missing Parts was mailed to the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that the Notice to File Missing Parts was not received. In support, petitioner indicates that a search of the file jacket and the docket records revealed that the Notice was not received and submits copies of pages from docket records, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice to File Missing Parts.

In view of the facts set forth in the petition, it is concluded that the Notice to File Missing Parts was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter will be referred to th Office of Patent Application Processing for appropriate action on the response filed May 14, 2010 with the instant petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MOHAMMAD ETMINAN
5484 LYNBROOK
HOUSTON TX 77056

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JUL 0 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Mohammad ETMINAN	:	
Application No. 61/224,887	:	DECISION ON PETITION
Filed: July 12, 2009	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 07, 2010, 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 September 14, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 15, 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 (**1**).

Petitioner did not provide a provisional application cover sheet under 37 CFR 1.51 (c) (1) as required by the notice mailed September 14, 2009. (See attachment)

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) 272-4231.

Michelle R. Eason
Paralegal Specialist
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 OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/224,887	07/12/2009	Mohammad Etminan	

CONFIRMATION NO. 4378

Mohammad Etminan
5484 lynbrook
Houston, TX 77056

FORMALITIES LETTER

OC000000037732260

Date Mailed: 09/14/2009

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).

X • 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:

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/schin/

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

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MINNEAPOLIS MN 55402

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JUL 15 2010

OFFICE OF PETITIONS

In re Application of :
Mohammad ETMINAN :
Application No. 61/224,887 : DECISION ON PETITION
Filed: July 12, 2009 :
Attorney Docket No. :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 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 Provisional Application (Notice), mailed September 14, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the provisional application cover sheet and required fee, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Provisional Application of September 14, 2009 is accepted as having been unintentionally delayed.

The power of attorney filed with the petition on July 12, 2010 has been accepted and made of record.

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

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

Michelle R. Eason
Petitions Examiner
Office of Petitions

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EITAN MEHULAL LAW GROUP
10 ABBA EBAN BLVD. PO BOX 2081
HERZLIA 46120 IL ISRAEL

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JUL 14 2010

OFFICE OF PETITIONS

In re Application of
Daniel Nathan Frydman et al
Application No. 61/225,269
Filed: July 14, 2009
Attorney Docket No. COMMUNICATION SYSTEM

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (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 August 11, 2009, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Third Floor
PASADENA CA 91103-3842

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Guzaev, et al.
Application No. 61/225,839
Deposited: July 15, 2009
Attorney Docket No. 19790
For: TREATMENT OF NEUROLOGICAL DISORDERS

ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed September 2, 2009, to accord a filing date of July 15, 2009 to the above-identified application.

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

The application was deposited on July 15, 2009. However, on August 11, 2009, the Office of Patent Application Processing mailed a "Notice of Incomplete Provisional Application" requiring drawings of applicants' 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 July 15, 2009 refers to drawing figures.

Petitioners request that the application be accorded a July 15, 2009 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 August 11, 2009 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of July 15, 2009 without drawing figures. The petition is **granted**.

The $400.00 petition fee will be credited to petitioners' deposit account.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of **July 15, 2009** and the mailing of a filing receipt reflecting the July 15, 2009 filing date. The drawings submitted with the petition will not be processed as part of the originally filed application.

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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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OCT 19 2009

OFFICE OF PETITIONS

In re Application of :
Takeshi Kaneko :
Application Number: 61/226102 : ON PETITION
Filed: 07/16/2009 :
Attorney Docket Number: 081468-0381708 :

This is a decision on the petition filed on August 18, 2009, 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 July 16, 2009.

The petition is **GRANTED**.

The application was filed on July 16, 2009, without drawings. Accordingly, on July 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 had been deposited without drawings.

On August 18, 2009, the present petition was filed. Petitioner's counsel asserts 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 July 23, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of July 16, 2009, 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 July 16, 2009.

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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MCLEAN VA 22102

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OCT 19 2009

OFFICE OF PETITIONS

In re Application of :
Slotboom et al. :
Application Number: 61/226117 : ON PETITION
Filed: 07/16/2009 :
Attorney Docket Number: 081468-0381709 :

This is a decision on the petition filed on August 18, 2009, 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 July 16, 2009.

The petition is **GRANTED**.

The application was filed on July 16, 2009, without drawings. Accordingly, on July 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 had been deposited without drawings.

On August 18, 2009, the present petition was filed. Petitioner's counsel argues 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 July 23, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of July 16, 2009, 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 July 16, 2009.

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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MAY 07 2010

OFFICE OF PETITIONS

In re Application of :
David A. Dellinger, et. al. :
Application No. 61/227,744 : DECISION GRANTNG PETITION
Filed: July 22, 2009 :
Attorney Docket No. 40134.8006.US01 :

This is a decision on the petition filed November 9, 2009 requesting that the above-identified provisional application be accorded a filing date of July 22, 2009.

The application was deposited on July 22, 2009. However, on August 12, 2009, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (Notice) requiring drawings and stating that the filing date of the application would be the date of receipt of the omitted drawings.

In response, on November 9, 2009, 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 July 22, 2009 filing date without the drawings.

It is noted that the petition contains a statement that the drawings are not necessary for an understanding of the invention and the petition is signed by the agent of record. Therefore, the petition is **granted**.

This application file is being referred to the Office of Patent Application Processing for further **processing with a filing date of July 22, 2009**.

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

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PETERS VERNY, L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Weng Cheong Christopher TOH et al. :
Application No. 61/228,359 : DECISION ON PETITION
Filed: July 24, 2009 :
Attorney Docket No. 5709.01 :

This is a decision on the petition under 37 CFR 1.182, filed, September 03, 2009, as Abandonment in Favor of Continuing Application.

The petition is **DISMISSED**.

On July 31, 2009, petitioner filed an Express Abandonment under 37 CFR 1.138d. Petitioner stated that the first box was unintentionally checked and that the intent was to check the second box for Express Abandonment in Favor of Continuing Application.

It is imperative that the attorney or agent of record exercise every precaution in ascertaining that the abandonment of the application is in accordance with the desires and best interests of the applicant prior to signing a letter of express abandonment of a patent application. Care should be exercised in situations such as these as the Office looks on express abandonments as acts of deliberation, intentionally performed.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
Wands et al.	:	
Application Number: 61/228429	:	ON PETITION
Filed: 7/24/2009	:	
Attorney Docket Number: 21486-593P01US	:	

This is a decision on the "PETITION UNDER 35 U.S.C. § 113," filed on October 7, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of July 24, 2009.

The petition is **GRANTED**.

The application was filed on July 24, 2009, without drawings. Accordingly, on August 24, 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 had been deposited without drawings.

In response, on October 7, 2009, 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 July 24, 2009, 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 24, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of July 24, 2009, without drawings as a part of the original disclosure.

No petition fee is due. The petition fee is being 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 July 24, 2009, 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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OFFICE OF PETITIONS

GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE WA 98004

In re Application of :
Christopher Michael Kevin Springate :
Application No. 61/228,525 : DECISION ON
Submitted December July 24, 2009 : PETITION
Attorney Docket No. 1946-020-02 :

This is a decision on the petition Under 37 CFR 1.17(f) to Withdraw Notice of Incomplete Provisional Application, filed October 21, 2009, which is being treated as a petition filed under 37 CFR 1.182.

The petition is **Dismissed.**

A Notice of Incomplete Provisional Application (Notice) was mailed August 21, 2009. The Notice indicated that the application was incomplete because it was deposited without drawings. Petitioner argues that the Notice was "non-sensical, unnecessary and wrong". Petitioner avers that drawings are not needed to understand the invention and the Notice should be withdrawn.

Petitioner's attention is drawn to MPEP 608.02 III which reads in part:

> III. HANDLING OF DRAWING REQUIREMENTS UNDER THE FIRST SENTENCE OF 35 U.S.C 113
>
> The Office of Patent Application Processing (OPAP) will make the initial decision in all new applications as to whether a drawing is "necessary" under the first sentence of 35 U.S.C. 113. **A drawing will be considered necessary under the first sentence of 35 U.S.C. 113 in all applications where the drawing is referred to in the specification and one or more figures have been omitted.**

A review of the specification as filed shows a "BRIEF DESCRIPTION OF THE FIGURES" on pages 13-14 for figures 1-10 and at least page 52 at paragraph [000194] references figures 1-5. Clearly drawings are referred to in the specification, no drawing figures were filed and thus drawings were considered necessary.

For this reason the Notice was proper and will not be withdrawn and the petition is dismissed.

Petitioner's position that drawings are not necessary for the understanding of the invention and that the date of deposit of the application should be the filing date is addressed as follows.

MPEP 601.01(f) states in part:

> 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.

MPEP601.01(g) as referenced above states in part:

> 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

In summary, the petition to withdraw the Notice is dismissed. The date of deposit of the application will be the application filing date with no drawings.

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

> **correction of the filing date to July 24, 2009;**
> **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing and**
> **for issuance of a filing receipt.**

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

David Bucci
Petitions Examiner
Office of Petitions

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KENYON & KENYON, LLP
ONE BROADWAY
NEW YORK, NY 10004

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DEC 17 2009

OFFICE OF PETITIONS

In re Application of :
Irena Krizmanic :
Application No. 61/228,804 : DECISION GRANTNG PETITION
Filed: July 27, 2009 :
Attorney Docket No. 14789/A406P1 :

This is a decision on the petition filed October 19, 2009 requesting that the above-identified provisional application be accorded a filing date of July 27, 2009.

The application was deposited on July 27, 2009. However, on September 11, 2009, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (Notice) requiring drawings and stating that the filing date of the application would be the date of receipt of the omitted drawings. A provisional application cover sheet, which may be an Application Data Sheet (ADS) identifying either the city and state or city and foreign country of the inventor's residence was also required.

In response, on October 19, 2009, the present petition, an amendment canceling the references to the drawings in the specification and the necessary cover sheet were filed. Petitioner states that the drawings are not necessary for an understanding of the claimed subject matter and, therefore, the application should be accorded the July 27, 2009 filing date without the drawings.

It is noted that the petition contains a statement that the drawings are not necessary for an understanding of the invention and the petition is signed by the agent of record. Therefore, the petition is **granted**.

This application file is being referred to the Office of Patent Application Processing for further **processing with a filing date of July 27, 2009**.

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

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SUITE 700
BELLEVUE WA 98004

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MAR 03 2010

OFFICE OF PETITIONS

In re Application of :
Springate, et al. :
Application No. 61/228,929 : DECISION GRANTING PETITION
Filed: July 27, 2009 :
Attorney Docket No. 1946-020-05

This is a decision on the petition filed October 21, 2009, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of July 27, 2009.

The petition is **GRANTED**.

The application was deposited on July 27, 2009. However, on August 24, 2009, the Office of Initial Patent Examination 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.

As stated in MPEP § 601.01(f), it is the practice of the 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 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 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 24, 2009, 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 has been refunded to petitioner's deposit account.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of July 27, 2009, for indication that "0" sheets of drawings were present on filing.

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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HUSCH BLACKWELL SANDERS LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS MO 63105

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In re Application of	:	
Vos et al.	:	
Application Number: 61/229175	:	DECISION DISMISSING PETITION
Filing Date: 07/28/2009	:	
Attorney Docket Number: 14957.8	:	

This is a decision on the petition filed under 37 CFR 1.53(e) on October 26, 2009.

The petition is **dismissed**.

On July 28, 2009, the above-identified provisional application was filed.

Om August 27, 2009, the Office of Patent Application Processing mailed a "Notice" stating that the application had been accorded a filing date of July 28, 2009, but that Figures 4.18, 5.15, 5.34, and 7.1 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on October 26, 2009, the subject petition was filed. Petitioners state "Applicant hereby submits the following item which appears to be inadvertently omitted from the electronically filed application: Figures 4.18, 5.15, 5.34, and 7.1." Petitioners state that the omitted items contain no new subject matter and request that the application, including the omitted drawing Figures, be accorded a filing date of July 28, 2009.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners do not assert that the missing Figures were deposited on July 28, 2009. Instead, applicants seek, in essence, to amend the application to include Figures 4.18, 5.15, 5.34, and 7.1. However, 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 of the provisional application.[1]

Furthermore, MPEP 601.01(d) states:

> The submission of omitted page(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 CFR 1.182 (with the petition fee under 37 CFR 1.17(f)) with any omitted page(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) and accord an application filing date as of the date of such submission in provisional applications. The

[1] See 37 CFR 1.53(c).

applicant should simply file a new completed provisional application.

Accordingly, the application will be processed with the application papers present on filing. The papers filed with the subject petition will not be processed, but will be retained in the application file.

The present petition was not necessitated by any error on the part of the Office and the $400.00 petition fee was required upon filing of the petition. Thus, the $400.00 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 July 28, 2009, using only the application papers filed on that date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BASF CORPORATION
CARL-BOSCH-STRASSE 38
LUDWIGSHAFEN D6705-6 DE GERMANY

MAILED

JUN 11 2010

OFFICE OF PETITIONS

In re Application of :
Pohlman, et al. :
Application No. 61/229,769 : ON PETITION
Filed: July 30, 2009 :
Attorney Docket No. PF62436 :
For: INSECTICIDAL 4-AMINO-THIENO[2,3-D]-PYRIMIDINE COMPOUNDS AND METHODS OF THEIR USE

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2010, to revive the above-identified application. In addition, this petition addresses the petition, filed June 2, 2010, under 37 CFR 1.182 to expedite review of the aforementioned petition under 37 CFR 1.137(b).

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

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application, mailed August 28, 2009, which set a two month shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on October 29, 2009. A Notice of Abandonment was mailed on May 5, 2010.

Applicants have submitted a proper reply to the August 28, 2009 Notice in the form of a provisional application cover sheet and $50.00 surcharge for its late filing, an acceptable statement of the unintentional nature of the delay in responding to the August 28, 2009 Notice, and the $1,620.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

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, practitioner 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, practitioner 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.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $2,350.00 extension of time submitted with the petition on May 11, 2010 was filed subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

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

CC: BASHIR M. ALI
2801 SLATER ROAD, SUITE 120
MORRISVILLE, NC 27560-8477

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

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Peter FORSELL :
Application No. 61/229,805 : DECISION ON PETITION
Filed: July 30, 2009 :
Attorney Docket No. RAM-2333-271 :

This is a decision on the petition under 37 CFR 1.82 filed September 30, 2009, in response to the Notice of Omitted Items in a Provisional Application.

On August 28, 2009, the Office mailed a Notice of Omitted Items in a Provisional Application stating that a filing dated has been accorded to the above-identified provisional application, however, some figures appear to have been omitted from the application and the figure 28(b) was describe in the specification.

Petitioner request amendment of the above –identified application to demonstrate that figure 28(b) was in fact received by the Office as figure 28.

The petition cannot be granted at this time. The Amendment is not incompliance with 37 CFR 1.121, Manner of making amendments in applications.

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

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

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

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

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

Telephone inquiries relating to 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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OCT 23 2009

OFFICE OF PETITIONS

CV THERAPEUTICS INC
GILEAD PALO ALTO INC
333 LAKESIDE DRIVE
FOSTER CITY CA 94404

In re Application of :
Koltun, et al. :
Application No. 61/229,882 : DECISION GRANTING PETITION
Filed: July 30, 2009 :
Attorney Docket No. 08-0273-P2

This is a decision on the petition under 37 CFR 1.53, filed September 23, 2009, to accord the above-identified application a filing date of July 30, 2009.

The application was deposited on July 30, 2009. However, on September 1, 2009, the Office of Initial Patent Examination 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.

As stated in MPEP § 601.01(f), it is the practice of the 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 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 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 September 1, 2009, 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 has been refunded to Deposit Account No. 50-1789.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of July 30, 2009, 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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4417 LANCASTER PIKE
WILMINGTON DE 19805

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JUL 16 2010

OFFICE OF PETITIONS

In re Application of :
Ayumu Yokoyama et al. :
Application No. 61/229,890 :
Filed: July 30, 2009 :
Attorney Docket No. FA1817USPRV :

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed August 24, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 25, 2009. A Notice of Abandonment was mailed May 3, 2010.

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 surcharge fee, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the provisional application cover sheet and fee are accepted as being unintentionally delayed.

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received May 4, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE CENTER
2000 Market Street
Tenth Floor
Philadelphia PA 19103

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OFFICE OF PETITIONS

In re Application of :
Nagele, et al. :
Application No. 61/233,067 : DECISION
Filed/Deposited: 6 August, 2009 :
Attorney Docket No. 96738.00001 :

This is a decision on the petition under 37 C.F.R. §1.10, filed on 24 August, 2009, seeking for the above-identified application a filing date of 6 August, 2009, rather than the presently accorded filing date of 11 August, 2009.

NOTE: Petitioner's presentation of the facts herein, along with the copies of documents submitted therewith, have been considered. Although Petitioner did not expressly state that the documents presented were "true copies," the Office has so construed Petitioner's statement and presentation, consistent with Petitioner's duty of candor to the Office.[1] If this understanding is incorrect, Petitioner **must** immediately so notify the Office.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The instant application was received by the Office and subsequently accorded a filing date of 11 August, 2009.

The record reflects that:

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

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EM312866847 US, was received by the Office on 11 August, 2009, and subsequently given a filing date of 11 August, 2009;

- with the instant petition, filed on 16 June, 2008, Petitioner provided, *inter alia*, a copy of the USPS Express Mail label bearing USPS Express Mail Label No. EM312866847 US, with a hand-written "date in" of "8 [space] 6 [space] 09," and Petitioner avers that is the correct date, and also directs the attention of the Office to a printout of the USPS (online) Track & Confirm record bearing USPS Express Mail Label No. EM312866847 US, and reflects "Acceptance August 6, 2009, 6:36 p.m., SOMERVILLE, NJ 08876"—which appears to be the originating ZIP Code ON/for the transmittal;

- further, it appears that the receipt of the package originally was refused at the Office, and Petitioner avers that the apparent reason for the refusal was that the package apparently was attempted to be delivered in an "oil-soaked" condition;

- in addition, Petitioner avers that an associate of hers immediately filed a copy of the papers in question on 11 August, 2009, via EFS.

Petitioner sought relief pursuant to the regulations at 37 C.F.R. §1.10(e), however, those provisions address an environment I which a postal emergency occurs.

More appropriately, the regulations at 37 C.F.R. §1.10(e) provide:

***

> (e) 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.
>
> ***

Petitioner appears to have filed the petition within one (1) month of notice of non-delivery. The Express Mail label number appears to have been placed on the papers sought to be filed thereunder, and, of course, also appears on the label and the USPS Track & Confirm data presented with the date-in data as described above. A copy of the papers sought to be filed were included with the petition—again the Office notes that it has construed Petitioner's presentation to read that all of the the copies submitted are "true copies" of papers submitted and of USPS materials—and Petitioner has made a showing consistent with at 37 C.F.R. §1.10(e)(4). Thus, Petitioner has satisfied the requirements set forth at at 37 C.F.R. §1.10(e).

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 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 petition is **granted**, and the petition fee is waived.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 6 August, 2009, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 6 August, 2009.

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

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

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

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

§1.2 Business to be transacted in writing.

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

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OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of :
Drew Houston et al. :
Application No. 61/233,773 : DECISION ON PETITION
Filed: August 13, 2009 : TO WITHDRAW
Attorney Docket No. PA4908PRV : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Myrna M. Schelling and attorneys/agents associated with customer number 22830: (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. Our records indicate that no power of attorney was filed in this application.

The request to change the correspondence address can not be accepted at this time because the change of address requested should be that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted.

All future communications from the Office will continue to be forwarded to the address above until 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

ON PETITION

In re Application of :
Zurawski et al. :
Application No: 61/234,836 :
Filed: August 18, 2009 :
Attorney Docket No:135977.00100 :

This is a decision on the petition filed on September 18, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of August 18, 2009.

The petition is **GRANTED**.

The application was filed on August 18, 2009, without drawings. Accordingly, on September 11, 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 had been deposited without drawings.

In response, on September 18, 2009, the subject petition was filed. Petitioners assert that the drawings are not required to obtain a filing date and submits a substitute specification removing references of 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 names of all the inventors.

A review of the record reveals that the application papers deposited on August 18, 2009, 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 11, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of August 18, 2009, without drawings as a part of the original disclosure. No petition fee is due.

The substitute specification submitted with the above petition on September 18, 2009, will be considered by the examiner.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to August 18, 2009, 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 571 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Baker Donelson Bearman, Caldwell & Berkowitz, PC
555 Eleventh Street, NW, Sixth Floor
Washington DC 20004

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JUN 02 2010

OFFICE OF PETITIONS

In re Application of :
MSIKA, PHILIPPE :
Application No. 61/235,728 : DECISION ON PETITION
Filed: August 21, 2009 :
Attorney Docket No. 2912956-035000 :

This is a decision on the petition under 37 CFR 1.59(b), filed August 25, 2009, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that a document entitled English translation of the specfication, filed August 25, 2009, 2009, be expunged from the record.

The petition is deficient because although the petition fee set forth in 37 CFR 1.17(g) has been paid, the petition does not contain a clear statement that the information requested to be expunged was unintentionally submitted and 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.

A grantable petition under 37 CFR 1.59(b) must be accompanied by a clear statement from petitioner: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public; (C) the petition fee set forth in 37 CFR 1.17(g). The instant petition lacks item(s) (A) or (B).

Telephone inquiries concerning this decision should be directed to Miranda Le at (571) 272-4112 or in her absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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Eli Raitport
5302 15th Avenue
Brooklyn, NY 11219

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of Raitport :
Application No. 61/236,506 : Decision on Petition
Filing Date: August 24, 2009 :
For: Aircraft-Bicycle :

This is a decision in response to the petition filed October 28, 2009, and supplemented November 4, 2009, which is being treated as a petition under 37 C.F.R. § 1.181 requesting waiver of all fees for the instant application.

The petition is **dismissed**.

Background

The application was filed August 24, 2009.

The Office mailed a Notice to File Missing Parts of Provisional Application on September 11, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. The Notice required the submission of:

(1) $220 for the filing fee, and
(2) $50 for the required surcharge.

On October 28, 2009, Petitioner filed a reply to the August 24, 2009 Notice in the form of the instant petition.

The instant petition states petitioner does not have money available to pay the filing fees for the instant application or for other applications.

The petition indicates Petitioner is 83 years old and states his income consists of a $637.75 social security stipend, food stamps, Medicare, and Medicaid. Petitioner states his rent is $1,047. Petitioner states he is currently in arrears for the rent and his landlord has begun legal proceedings to evict him.

Petitioner states Germany waived the filing fee when he filed applications for three patents in Germany. Petitioner also states Germany assigned attorneys to assist Petitioner in translating language and other matters. Although petitioner states Germany waived the filing fees, petitioner does not assert Germany waived all fees related to each of the applications/patents.

Petitioner indicates his pursuit of the application is "only and strictly for the public benefit."[1] Petitioner asserts new products create jobs and guarantee economic prosperity. Petitioner states the government should support the manufacture of new products.

Discussion

As indicated in the Notice to File Missing Parts, the fees set forth in the Notice are the non-small entity fees. The fees for a party that claims small entity status is 50% of each of the fees listed. For purposes of this decision, the Office assumes Petitioner is entitled to small entity status. In other words, the Office is assuming Petitioner is requesting a waiver of the following fees:

(1) The $110 filing fee,
(2) The $25 surcharge.

Petitioner's request for the waiver of the filing fee appears to be based on an incorrect assumption the Office has the discretion to waive the filing fee.

The filing fee is required by statute.[2] The Office lacks the authority to waive a fee set forth in a statute unless a statutory exemption is applicable. However, a statutory exemption permitting the waiver of the filing fee does not exist.[3] Therefore, the Office is *required* by law to collect the filing fee.

For the preceding reasons, the requirement for the submission of the filing fee is not waived.

The Office need not determine if the Office has the discretion to waive the $50 surcharge in view of the fact the issue appears moot because Petitioner has not alleged, if the surcharge is waived, Petitioner will be able to pay the remainder of the fees.

Requests for Reconsideration

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."

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[1] Page 2 of petition from Application No. 12/610,493.

[2] 42 U.S.C. § 41, as amended by the Consolidated Appropriations Act, 2005 ("CAA"), Public Law 108-447, 118 Stat. 2809 (2004). Although the original CAA only applied to Fiscal Years 2005 and 2006, subsequent legislation has extended the provisions of the act from Fiscal Years 2007-2010. *See* Pub. L. 111-117, 123 Stat. 3116 (2009), Pub. L. 111-8, 123 Stat. 564 (2009), Pub. L. 110-161, 121 Stat. 1844 (2007), Pub. L. 110-149, 121 Stat. 1819 (2007), Pub. L. 110-137, 121 Stat. 1454 (2007), Pub. L. 110-116, 121 Stat. 1295 (2007), Pub. L. 110-92, 121 Stat. 989 (2007), Pub. L. 110-5, 121 Stat. 8 (2007), Pub. L. 109-383, 120 Stat. 2678 (2006), Pub. L. 109-369, 120 Stat. 2642 (2006), and Pub. L. 109-289, 120 Stat. 1257 (2006).

[3] Statutory exemptions include 35 U.S.C. § 41(e) which allows waiver of some fees owed by departments or agencies of the federal government and 35 U.S.C. § 41(i)(3) which allows waiver of some fees charged by the Office for access to public automated search systems. Neither or the exemptions applies to the instant case.

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

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

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

The Current Status of the Application

Although the September 11, 2009 Notice to File Missing Parts set a period for reply of two (2) months, extensions of time are available under 37 C.F.R. § 1.136(a). Absent payment of the fees previously discussed *and* payment for an appropriate extension of time, the application is abandoned.

In view of Petitioner's assertion he is unable to pay previously discussed fees, Petitioner may well be unable to afford to pay extension of time fees. However, in order to ensure this decision clearly informs Petitioner of his rights, the decision will identify the specific items which must be filed in order to avoid abandonment.

In order to avoid abandonment of the application, the following items must be filed by April 12, 2010,

(1) A total of $270 for the required filing fee and surcharge **or** a total of $135 for the fees if a statement claiming the application is entitled to small entity status is filed,
(2) A request for a four-month extension of time, and
(3) Payment of $2,350 for a five-month extension of time **or** payment of $1,175 for the five-month extension of time if a statement claiming the application is entitled to small entity status is filed.

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
DIW Feb-10

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

MAILED

FEB 23 2010

OFFICE OF PETITIONS

In re Application of :
Jeffrey Erikson :
Application No: 61/237,867 : ON PETITION
Filed: August 28, 2009 :
Attorney Docket No: AIB-16541 :

This is a decision on the petition filed on November 18, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of August 28, 2009.

The petition is **GRANTED**.

The application was filed on August 28, 2009, without drawings. Accordingly, on October 1, 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 had been deposited without drawings.

In response, on November 18, 2009, 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 August 28, 2009, 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 1, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of August 28, 2009, 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 August 28, 2009, 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 Karen Creasy at 571 272-3231.

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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DIW Jan-10

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

MAILED

JAN 05 2010

OFFICE OF PETITIONS

In re Application of :
Luski et al. :
Application Number: 61/238402 : ON PETITION
Filing Date: 08/31/2009 :
Attorney Docket Number: :
3128.036P :

This is a decision on the "PETITION FOR PRESERVATION OF FILING DATE PURSUANT TO 37 CFR § 1.53(e)," filed on October 16, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of August 31, 2009.

The petition is **GRANTED**.

The application was filed on August 31, 2009, without drawings. Accordingly, on September 11, 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 had been deposited without drawings.

On September 21, 2009, three (3) sheets of drawings were filed. In response, the application was accorded a filing date of September 21, 2009.

In response, on October 16, 2009, the subject petition was filed. Petitioners assert that that the application, without drawings, is entitled to a filing date of August 31, 2009.

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 31, 2009, 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 11, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of August 31, 2009, without drawings as a part of the original disclosure.

The drawings filed on September 21, 2009 will be retained in the application file, but will not be considered part of the original disclosure.

No petition fee is due. The petition fee is being 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 August 31, 2009, 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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Alexandria, VA 22313-1450
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Caniggia et al.	:	
Application Number: 61/239170	:	ON PETITION
Filed: 09/02/2009	:	
Attorney Docket Number:	:	
11757.1025USP1	:	

This is a decision on the "PETITION TO ACCORD A FILING DATE UNDER MPEP §1.53(e)," filed on October 8, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of September 2, 2009.

The petition is **GRANTED**.

The application was filed on September 2, 2009, without drawings. Accordingly, on September 29, 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 had been deposited without drawings.

In response, on October 8, 2009, the subject petition was filed. Petitioners assert that that the application, as filed, is entitled to a 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 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 2, 2009, 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 29, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of September 2, 2009, without drawings as a part of the original disclosure.

No petition fee is due. The petition fee is being 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 September 2, 2009, 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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MAR 29 2010

OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

In re Application of :
Kenneth John Hughes et al. :
Application Number:61/240,075 : ON PETITION
Filed: September 4, 2009 :
Attorney Docket No: 085516-9159-US05 :

This is a decision on the petition filed on December 14, 2009, which is being treated as a petition requesting that the above-identified provisional application, be accorded a filing date of September 4, 2009.

The petition is **GRANTED**.

The application was filed on September 4, 2009. Accordingly, on October 13, 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 had been deposited without drawings.

In response, on December 14, 2009, the subject petition was filed. Petitioners assert 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 specification submitted on September 4, 2009, contains disclosure of a method. Also, applicant has incorporated by reference Application No. 12/399,295 which contains drawing Figures 1-5.

In view of the above, the Notice of Incomplete Provisional Application mailed on October 13, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of September 4, 2009, with an indication that the drawing Figures 1-5 were incorporated by reference (Application No. 12/399,295) as part of the original disclosure on September 4, 2009. Given the basis for granting this petition, the petition fee is being refunded to petitioner's credit card account as it was the method in which the petition fee was paid.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to September 4, 2009.

Telephone inquiries specific to this matter should be directed to Karen Creasy at 571 272-3208.

Anthony Knight
Supervisor
Office of Petitions

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CALIFORNIA INSTITUTE OF TECHNOLOGY
1200 E. CALIFORNIA BLVD.
M/C 201-85
PASADENA, CA 91125

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JUL 26 2010

OFFICE OF PETITIONS

In re Application of :
Lukas Mandrake et al :
Application No. 61/240,569 : ON PETITION
Filed: September 8, 2009 :
Attorney Docket No. CIT-5444-P :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Provisional Application (Notice) mailed October 14, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 15, 2009.

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Joseph B. Milstein
Milstein Zhang & Wu LLC
49 Lexington Street, Suite 6
Newton, MA 02465-1062

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PRASS LLP
2661 RIVA ROAD
BLDG. 1000, SUITE 1044
ANNAPOLIS MD 21401

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JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Ted Gattino et al	:	
Application No. 61/241,040	:	ON PETITION
Filed: September 10, 2009	:	
Atty Docket No. 076-0001	:	

This is a decision on the petition filed September 25, 2009, 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 September 10, 2009.

The petition is **GRANTED** to the extent indicated.

The application was filed on September 10, 2009, without drawings. Accordingly, on September 23, 2009, 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 25, 2009, the present petition was filed. Petitioner states that no reference to the drawings in the specification is necessary.

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 petition will be construed to mean that petitioner 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 September 23, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of September 10, 2009, without drawings as a part of the original disclosure.

As to the revised specification submitted on September 25, 2009, applicant is directed to, MPEP 601.01(d) which states:

> The submission of omitted page(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 CFR 1.182 (with the petition fee under 37 CFR 1.17(f)) with any omitted page(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) 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.

Therefore, the specification will be retained in the file but not considered as part of the original application papers.

The application is being referred to the Office of Patent Application Processing for further processing with a filing date of September 10, 2009, using only the application papers filed on that date.

Telepone inquiries specific to this matter should be directed to the undersigned at 571 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DOCKET DEPARTMENT
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102-2740

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JUN 2 2 2010

OFFICE OF PETITIONS

In re Application of	:	
Jimi FRANCIS	:	
Application No. 61/241,685	:	DECISION ON PETITION
Filed: September 11, 2009	:	
Attorney Docket No. 29707-17	:	

This is a decision on the petition under 37 CFR 1.53(e), filed November 19, 2009, to accord a filing date.

Petitioner asserts that no drawings are necessary for the filing of the subject provisional application pursuant to MPEP 601.01(f). A review of the Office records indicates that drawings are not needed.

Accordingly, this application is entitled to a filing date of September 11, 2009, and has been so accorded.

In view of the above, the petition is **GRANTED**. The petition fee of $400.00 will be credited to petitioner's deposit account.

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.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kimberly Ann Isaac
13603 Marina Pointe Dr.
Apt. B527
Marina del Rey, CA 90292

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JUL 19 2010

OFFICE OF PETITIONS

In re Application of
Kimberly Ann Isaac, et. al.
Application No. 61/244,034
Filed: 00/00/0000
Attorney Docket No. N/A

DECISION ON PETITION

This is a decision on the communication filed on February 19, 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 above application was held abandoned for failure to timely respond to the Notice of Incomplete Provisional Application (Notice) mailed October 27, 2009, which set a two (2) month period for reply from the mail date of the Notice. A Notice of Abandonment was mailed on February 4, 2010.

Petitioner states, "The purpose of this letter is to provide proof that I mailed the corrected information to the USPTO that was originally requested on 10/27/09. Please refer to the inclosed photocopy of the "U.S. Postal Service Certified Mail Receipt" dated 1/26/10."

A review of the record shows that the Office received a response to the Notice along with $65 for a one month extension of time on January 29, 2010. Since the one month extension of time was not received by January 28, 2010, the above application was held abandoned. However, petitioner could have submitted a petition for a two months extension of time which would have extended the time to file a reply to February 27, 2010. In this case, that was not done. Therefore, this application was properly abandoned.

It is noted that petitioner wishes to rely on the "U.S. Postal Service Certified Mail Receipt dated 1/26/10." Unfortunately, the United States Patent and Trademark Office (USPTO) recognize itemized postcard receipts[1], certificate of mailing under 37 CFR 1.8[2] and mail sent by Express Mail procedures under 37 CFR 1.10[3] to prove timely receipt of any response submitted to the Office. Thus, the present petition is **dismissed**.

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[1] An itemized 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.

[2] A suggested format for a Certificate of Mailing under 37 CFR 1.8 to be included with the correspondence is reproduced below:

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
on _____.
(Date)
Typed or printed name of person signing this certificate

_____
Signature _____

In view of the above, this application became abandoned on January 28, 2010 and will remain abandoned until petitioner takes some other action to further prosecution in the above application.

It is strongly recommended that petitioner file a petition to revive under 37 CFR 1.137(b) and pay the petition fee of $810. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A courtesy copy of form PTO/SB/64 is enclosed with this decision.

Since the $65 extension of time fee submitted on January 29, 2010 was subsequent to the date of abandonment, this fee is unnecessary and petitioner may request a refund of this fee[4] 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.

Additionally, the present petition is signed by one of two joint inventors. Thus, any renewed petition or petition under 37 CFR 1.137(b) must be signed by both inventors unless there is an assignee of record. Petitioner should note 37 CFR 1.33(b), which states that 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.**

A courtesy copy of this decision is being mailed to the address given in the present petition. Thereafter, all future communications from the Office will be directed solely to the address of record unless otherwise notified by the applicants.

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

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[3] 37 CFR 1.10(a)(1) and (2) states, "Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS. The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. *See* § 1.6(a)."

[4] Or petitioner can request that the $65 fee be applied towards the $810 petition fee.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) (Form No. PTO/SB/64)

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
www.uspto.gov

NOKIA, INC.
6021 CONNECTION DRIVE, MS 2-5-520
IRVING TX 75039

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Viitanen, et al. :
Application No. 61/244,698 : DECISION
Filed/Deposited: 22 September, 2009 :
Attorney Docket No. NC69937US-PSP :

This is a decision on the petition filed on 4 November, 2009, and properly considered pursuant to 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 22 September, 2009.

On 6 October, 2009, 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).

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 4 November, 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 (e.g., specification, page 8).

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 22 September, 2009, without drawings, and the Office transmitted to Petitioner on 6 October, 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., specification, page 8).

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 6 October, 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 22 September, 2009, 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 refunded—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 22 September, 2009, with the 12 pages of specification (description, claims) deposited on 22 September, 2009, 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

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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:

§1.2 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

Gordon D. Kinder
2231 Delamere Dr.
Cleveland OH 44106

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Nathaniel Smith :
Application No. 61/245,241 : DECISION ON PETITION
Filed: September 23, 2009 :
Attorney Docket No. SMIT P 0927 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 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 in a provisional Application (Notice), mailed October 8, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 9, 2009.

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

It should be noted that the filing of this petition was premature as the maximum extendable period did not end until May 8, 2010. However, because authorization for a five month extension of time was not available, the petition is being treated as it is now ripe.

This application is being forwarded to the Office of Patent application processing for further processing of the application.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Feb-10

WILLIAM CHARLES DERBES
10520 WOHLER ROAD
HEALDSBURG CA 95448

MAILED

FEB 26 2010

OFFICE OF PETITIONS

In re Application of	:	
William Charles Derbes	:	
Application Number: 61/246979	:	LETTER REGARDING PETITION
Filing Date: 09/30/2009	:	
For: DISTRIBUTIVELY INTEGRATED	:	
SOLAR GAS TURBINE TROUGH WITH	:	
DUAL COUNTER-FLOW FOCAL LINES	:	

This is a decision in reference to the letter filed on September 30, 2009, styled as a petition to according the above-identified application a filing date of September 29, 2009, rather than the currently-accorded filing date of September 30, 2009.

The petition is **DISMISSED** for the reasons stated.

The above-identified provisional application was filed via EFS-Web on September 30, 2009.

Applicant, *pro se*, asserts, in pertinent part:

> Last night, I filed a Provisional Patent Application online using EFS as an unregistered efiler. I was trying to file before 9:00 pm PST, to get a 9/29/09 filing date. Previously, I had requested and received a Customer Number in order to speed things up. I started at 8:30. However, when I entered my Customer Number on the second webpage in the EFS sequence and clicked "Continue," it erased all my information and brought me back to the first page. I tried again and again, reentering my information each time. I tried closing and reopening my browser and restarting my computer, with the same result. Finally, I tried using a Correspondence Address instead of a Customer Number, which got me to the next page. There I entered the

> information I had given to get my Customer Number originally, and it finally went through, but it was 9:01:49 PST, less than two minutes after midnight EST, but enough to trip my filing date to 9/30/09. If not for the problems with the EFS website, I would have had a 9/29/09 filing date.

At the outset, petitioner should note that any petition for correction of the filing date must be pursuant to 37 CFR 1.53(e), and be accompanied by the $400.00 petition fee (37 CFR 1.17(f)). If the petition states that the application is entitled to a filing date, a request for refund of the petition fee may be included in the petition. Any fee due to the Office must be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[1] No fee has been included with the present petition.

Any petition must be accompanied by the $400.00 petition fee.

Further, petitioner's attention is directed to the *Legal Framework for EFS-Web*, which can be found online at: http://www.uspto.gov/patents/process/file/efs/guidance/New legal framework.jsp.

In this regard, if petitioner was having difficulty with filing the application via EFS-Web, petitioner should have contacted the Electronic Business Center (EBC) for assistance in resolving any difficulties.

More importantly, item C2 of the Legal Framework states, in pertinent part:

> To be very specific, **the EFS-Web system records as the date of receipt of documents the local date in Eastern Standard Time** on which the USPTO receives the documents, after the user clicks the SUBMIT button on the Confirm and Submit screen for those documents.
>
> For example, if an applicant in California officially files a patent application with the USPTO through EFS-Web by clicking on the SUBMIT button at 10 p.m. Pacific Time in California on May 1, that application would be officially received by the USPTO at 1 a.m. Eastern Standard Time on May 2. Accordingly, the application would receive a filing date of May 2. However, the applicant could alternatively file the application

[1] 37 CFR 1.22.

> using Express Mail from the USPS in accordance with 37 CFR 1.10 in which case the applicant would have until midnight on May 1 in his or her local time zone to file the application and obtain a filing date of May 1.
>
> (emphasis in original)

It is undisputed that applicant's submission was not filed in the USPTO until September 30, 2009. Accordingly, the Office properly accorded a filing date of September 30, 2009. In waiting until 8:30 pm Pacific Standard Time (11:30 pm Eastern Standard Time), on September 29, 2009, applicant left very little time to properly file the application. Alternatively, applicant could have filed the application using Express Mail from the USPS in accordance with 37 CFR 1.10 in which case the applicant would have until midnight on September 29 in his or her local time zone (in this case, Pacific Standard Time) to file the application and obtain a filing date of September 29.

Simply put, while it is unfortunate that applicant was not able to file the application via EFS-Web by 11:59 pm Eastern Standard Time, on September 29, 2009, applicant assumed the risk that difficulties and/or delays in the use of EFS-Web could delay the filing of the application until September 30, 2009. In future filings, applicant should allow sufficient time to account for possible delays or difficulties in the use of EFS-Web when filing an application.

Accordingly, the petition is **dismissed**.

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

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

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

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

The application is referred to the Office of Patent Application Processing for further processing with a filing date of **September 30, 2009**.

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

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.
61/248,397	10/02/2009	Gary L. Andersen	IB-2229P1	5285

7590 11/03/2009

LAWRENCE BERKELEY NATIONAL LABORATORY
Technology Transfer & Intellectual Propery Managem
One Cyolotron Road MS 56A-120
BERKELEY, CA 94720

EXAMINER	
ART UNIT	PAPER NUMBER
MAIL DATE	DELIVERY MODE
11/03/2009	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.

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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POLSTER, LIEDER,
WOODRUFF & LUCCHESI
12412 POWERS COURT DRIVE/SUITE 200
ST. LOUIS MO 63131-3615

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Fox, et al. :
Application No. 61/249,434 : DECISION
Filed/Deposited: 10 October, 2009 :
Attorney Docket No. TIMK D511US :

This is a decision on the petition improvidently filed on 3 November, 2009, and properly considered pursuant to 37 C.F.R. §1.53.

For the reasons set forth below, the petition pursuant to 37 C.F.R. §1.53 is **DISMISSED** without prejudice.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition pursuant to 37 C.F.R. §1.53 and §1.182."

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

BACKGROUND

The instant application was deposited on 7 October, 2009.

On 30 October, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113.

Thus, the application was not accorded a filing date.

OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s).

OPAP set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted:

- a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented;
- no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit;
- a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented.

Petitioner sought refund of the petition fee.

ANALYSIS

After the instant application was deposited on 7 October, 2009, the Office of Patent Application Processing (OPAP) mailed on 30 October, 2009, a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113. Thus, the application was not accorded a filing date. OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s), and set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted: a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented; no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit; a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented. (Petitioner asserted that the drawing was sufficiently described in the specification.)

It is the practice of the Office to treat an application that contains at least one composition, 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 indicates that it appeared that there were no composition, process or method claim(s) present on deposit.

The guidance in the Commentary at MPEP §601.01, and specifically MPEP §601.01(f) provides in pertinent part:

***

601.01(f)Applications Filed WithoutDrawings [R-7]

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date. . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented."

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

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. Other situations in which drawings are usually not considered necessary for the understanding of the invention under 35 U.S.C. 113 (first sentence) are:

(A)*Coated articles or products*: where the invention resides solely in coating or impregnating a conventional sheet (*e.g.*, paper or cloth, or an article of known and conventional character with a particular composition), unless significant details of structure or arrangement are involved in the article claims;
(B)*Articles made from a particular material or composition*: where the invention consists in making an article of a particular material or composition, unless significant details of structure or arrangement are involved in the article claims;
(C)*Laminated structures*: where the claimed invention involves only laminations of sheets (and coatings) of specified material unless significant details of structure or arrangement (other than the mere order of the layers) are involved in the article claims; or
(D)*Articles, apparatus, or systems where sole distinguishing feature is presence of a particular material*: where the invention resides solely in the use of a particular material in an otherwise old article, apparatus or system recited broadly in the claims, for example:

(1)A hydraulic system distinguished solely by the use therein of a particular hydraulic fluid;
(2)Packaged sutures wherein the structure and arrangement of the package are conventional and the only distinguishing feature is the use of a particular material.

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, not describing drawing figures in the specification, and filed without drawings will simply be processed, so long as the application contains something that can be construed as a written description. 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. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO. The application will be returned to the Office of **>Patent Application Processing (OPAP)< for mailing of a "Notice of Incomplete Application."
>
> ***

In light of the foregoing, and—in particular—in light of Petitioner's insistence on submission of the drawing figure deposited contemporaneously with the petition, an act that is not consistent with Petitioner's assertion that drawings are not necessary for an understanding of the subject matter sought to be patented, the assertion cannot be accepted at this writing. Moreover, the request for refund cannot be granted because, as of this writing, there is no basis to conclude that the determination of OPAP was improper in light of Petitioner's deposit on 7 October, 2009.

Petitioner is reminded and cautioned that such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).)

In light of the foregoing, Petitioner's intent herein remains unclear, and the Office will not attempt to fathom Petitioner's intent.

CONCLUSION

The petition is **dismissed** without prejudice; the error was not Office error, and the fee is not waived and was charged as authorized by Petitioner.

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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POLSTER, LIEDER,
WOODRUFF & LUCCHESI
12412 POWERS COURT DRIVE/SUITE 200
ST. LOUIS MO 63131-3615

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Fox, et al. :
Application No. 61/249,434 : DECISION
Filed/Deposited: 10 October, 2009 :
Attorney Docket No. TIMK D511US :

This is a decision on the petition improvidently filed on 29 December, 2009, and properly considered pursuant to 37 C.F.R. §1.53.

For the reasons set forth below, the petition pursuant to 37 C.F.R. §1.53 is **DISMISSED** without prejudice.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition pursuant to 37 C.F.R. §1.53 and §1.182."

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

BACKGROUND

The instant application was deposited on 7 October, 2009.

On 30 October, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113.

Thus, the application was not accorded a filing date.

OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were)

present on deposit, and provide a copy of the drawing(s).

OPAP set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted:

- a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented;
- no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit;
- a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented.

Petitioner sought refund of the petition fee.

ANALYSIS

After the instant application was deposited on 7 October, 2009, the Office of Patent Application Processing (OPAP) mailed on 30 October, 2009, a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113. Thus, the application was not accorded a filing date. OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s), and set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted: a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented; no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit; a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented. (Petitioner asserted that the drawing was sufficiently described in the specification.)

Because it is the practice of the Office to treat an application that contains at least one composition, 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 was made of the application papers deposited. A review of the application indicates that it appeared that there were no composition, process or method claim(s) present on deposit. The petition was dismissed on 22 December, 2009, and

Petitioner was instructed to make a proper showing to support the petition or to state that he accepted the 3 November, 2009, date of deposit of the drawing (with the original petition) as the filing date of the application.

On 29 December, 2009, Petitioner resubmitted his petition, seeking once again to obtain a 7 October, 2009, filing date, and stating:

> Applicant respectfully requests the following: *** (2) **in the alternative**, an affirmative statement that the Application is entitled to the filing date upon which the drawing figure was submitted to the USPTO with the Petition, i.e., November 3, 2009, which was within the two-month window for response required by the Notice of Incomplete Application. (Emphasis the original.)

Thus, Petitioner failed to state a choice; rather, Petitioner asked the Office to make the choice for him.

As was clear from the 22 December 2009, decision—which stated expressly: "Petitioner's intent herein remains unclear, and the Office will not attempt to fathom Petitioner's intent"—the Office will not make the choice or attempt to fathom Petitioner's intent. That is Petitioner's responsibility in this matter.

The guidance in the Commentary at MPEP §601.01, and specifically MPEP §601.01(f) provides in pertinent part:

***

601.01(f)Applications Filed WithoutDrawings [R-7]

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date. . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented."

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

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. Other situations in which drawings are usually not considered necessary for the understanding of the invention under 35 U.S.C. 113 (first sentence) are:

(A)*Coated articles or products*: where the invention resides solely in coating or impregnating a conventional sheet (*e.g.*, paper or cloth, or an article of known and conventional character with a particular composition), unless significant details of structure or arrangement are involved in the article claims;
(B)*Articles made from a particular material or composition*: where the invention consists in making an article of a particular material or composition, unless significant details of structure or arrangement are involved in the article claims;
(C)*Laminated structures*: where the claimed invention involves only laminations of sheets (and coatings) of specified material unless significant details of structure or arrangement (other than the mere order of the layers) are involved in the article claims; or
(D)*Articles, apparatus, or systems where sole distinguishing feature is presence of a particular material*: where the invention resides solely in the use of a particular material in an otherwise old article, apparatus or system recited broadly in the claims, for example:

(1)A hydraulic system distinguished solely by the use therein of a particular hydraulic fluid;
(2)Packaged sutures wherein the structure and arrangement of the package are conventional and the only distinguishing feature is the use of a particular material.

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, not describing drawing figures in the specification, and filed without drawings will simply be processed, so long as the application contains something that can be construed as a written description. 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. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO. The application will be returned to the Office of **>Patent Application Processing (OPAP)< for mailing of a "Notice of Incomplete Application."

***

In light of the foregoing, and—in particular—in light of Petitioner's insistence on submission of the drawing figure deposited contemporaneously with the petition, an act that is not consistent with Petitioner's assertion that drawings are not necessary for an understanding of the subject matter sought to be patented, the assertion cannot be accepted at this writing. Moreover, the request for refund cannot be granted because, as of this writing, there is no basis to conclude that the determination of OPAP was improper in light of Petitioner's deposit on 7 October, 2009.

Once again, Petitioner's intent herein remains unclear, and the Office will not attempt to fathom Petitioner's intent.

Moreover, Petitioner was cautioned at page 4 of the decision of 22 December, 2009, that:

> *Petitioner is reminded and cautioned that such limited amendment of provisional applications as is permitted is discussed in the guidance in the Commentary at MPEP §601.01(b).)*

Petitioner, as one registered to practice before the Office, is aware that he cannot amend a provisional application, save to satisfy formalities.

Petitioner may, if he wishes to have alternative content to that previously deposited, file a new provisional application.

CONCLUSION

The petition is **dismissed**.

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

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

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

By 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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[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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WOODRUFF & LUCCHESI
12412 POWERS COURT DRIVE/SUITE 200
ST. LOUIS MO 63131-3615

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Fox, et al. :
Application No. 61/249,434 : DECISION
Filed/Deposited: 7 October, 2009 :
Attorney Docket No. TIMK D511US :

This is a decision on the petition 5 April, 2010, properly considered pursuant to 37 C.F.R. ' 1.53.

For the reasons set forth below, the petition pursuant to 37 C.F.R. ' 1.53 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition pursuant to 37 C.F.R. §1.53 and §1.182."

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

BACKGROUND

The instant application was deposited on 7 October, 2009.

On 30 October, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113.

Thus, the application was not accorded a filing date.

OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s).

OPAP set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted:

- a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented;
- no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit;
- a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented.

Petitioner sought refund of the petition fee.

The petition was dismissed on 22 December, 2009, because, *inter alia*, it was unclear as to whether Petitioner intended to aver drawings were not required for an understanding of the subject matter sought to be patented.

On 29 December, 2009, Petitioner renewed his petition and sought to amend the provisional application, in direct conflict with the regulations at 37 C.F.R. §1.53(c) and the guidance in the Commentary at MPEP §506. The petition was dismissed on 22 March, 2010.

On 5 April, 2010, Petitioner once again advanced his petition—averring that he did not wish to engage in "semantic arguments," and again demanded a filing date for the instant application.

Petitioner again failed to demonstrate that the instant application was complete upon deposit. And notwithstanding Petitioner's characterization, compliance with Office filing requirements is not a matter of a semantic argument. Having failed to comply on the original deposit of the papers in this application, Petitioner is reminded that he may file a new provisional application, but that he may not amend a provisional application (save for formalities (e.g., a cover sheet)).

ANALYSIS

After the instant application was deposited on 7 October, 2009, the Office of Patent Application Processing (OPAP) mailed on 30 October, 2009, a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113. Thus, the application was not accorded a filing date. OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required

drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s), and set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted:

- a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented;

- no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit; a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented. (Petitioner asserted that the drawing was sufficiently described in the specification.)

Because it is the practice of the Office to treat an application that contains at least one composition, 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 was made of the application papers deposited. A review of the application indicated that it appeared that there were no composition, process or method claim(s) present on deposit. The petition was dismissed on 22 December, 2009.

On 29 December, 2009, Petitioner resubmitted his petition; made nō showing of completeness of the application on deposit, but nonetheless sought once again to obtain a 7 October, 2009, filing date, and stated that "Applicant respectfully requests the following: *** (2) **in the alternative**, an affirmative statement that the Application is entitled to the filing date upon which the drawing figure was submitted to the USPTO with the Petition, i.e., November 3, 2009, which was within the two-month window for response required by the Notice of Incomplete Application." (Emphasis the original.) Thus, Petitioner failed to state a choice; rather, Petitioner insisted that the Office make the choice for him. Previously the 22 December 2009, decision made clear that the Office would not make Petitioner's decisions for him. Thus, the 29 December, 2009, petition was dismissed on 22 March, 2010.

On 5 April, 2010, Petitioner for the third time advanced his petition—averring that he did not wish to engage in "semantic arguments," and demanded a filing date for the instant application. Yet, Petitioner for a third time failed to demonstrate that the application was due a filing date on deposit on 7 October, 2009.

Petitioner's attentions are directed to the regulations at 37 C.F.R. §1.53(c) and the guidance in the Commentary at MPEP §601.01 (specifically MPEP §601.01(f)), as well as that at MPEP §506.

The instant application was not due a filing date on its deposit on 7 October, 2009, because it was incomplete on deposit, as noted by OPAP on 30 October, 2009. Petitioner neither contested nor disproved this condition in his three efforts herein. Instead, Petitioner sought:

- twice to have the Office guess as to his intent, which is inappropriate; and
- at least twice to amend, which is improper as to a provisional application.

Petitioner's proper choice was to file a complete application on deposit, or file a new application upon receipt of the 30 October, 2009, Notice from OPAP.

Once again Petitioner is reminded that he, as one registered to practice before the Office:

- is aware that he cannot amend a provisional application, save to satisfy formalities; and
- may, if he wishes to have alternative content to that previously deposited, file a new provisional application.

CONCLUSION

The petition is **dismissed**; no filing date is accorded and no amendment is permitted.

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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[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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WOODRUFF & LUCCHESI
12412 POWERS COURT DRIVE/SUITE 200
ST. LOUIS MO 63131-3615

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Fox, et al. :
Application No. 61/249,434 : DECISION
Filed/Deposited: 7 October, 2009 :
Attorney Docket No. TIMK D511US :

This is a decision on the petition 25 June, 2010, properly considered pursuant to 37 C.F.R. ' 1.53.

For the reasons set forth below, the petition pursuant to 37 C.F.R. ' 1.53 is **GRANTED** to the extent discussed below.

BACKGROUND

The instant application was deposited on 7 October, 2009.

Thereafter, at the Office:

- On 30 October, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113.

- Thus, the application was not accorded a filing date.

- OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s).

- OPAP set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted:

- a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented;
- no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit;
- a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented.

Petitioner sought refund of the petition fee. The petition was dismissed on 22 December, 2009, because, *inter alia*, it was unclear as to whether Petitioner intended to aver drawings were not required for an understanding of the subject matter sought to be patented.

On 29 December, 2009, Petitioner renewed his petition and sought to amend the provisional application, in conflict with the regulations at 37 C.F.R. §1.53(c) and the guidance in the Commentary at MPEP §506. The petition was dismissed on 22 March, 2010.

On 5 April, 2010, Petitioner once again advanced his petition—averring that he did not wish to engage in "semantic arguments," and again demanded a filing date for the instant application. Petitioner again failed to demonstrate that the instant application was complete upon deposit. And notwithstanding Petitioner's characterization, compliance with Office filing requirements is not a matter of a semantic argument. Having failed to comply on the original deposit of the papers in this application, Petitioner is reminded that he may file a new provisional application, but that he may not amend a provisional application (save for formalities (e.g., a cover sheet)). The petition was dismissed on 14 June, 2010.

On 25 June, 2010, Petitioner advanced his petition once more, averring that the application was not amended with the submission of the 3 November, 2009, drawing because a strict reading of the Rule would not define the application as completed until the 3 November, 2009, submission.

ANALYSIS

After the instant application was deposited on 7 October, 2009, the Office of Patent Application Processing (OPAP) mailed on 30 October, 2009, a Notice of Incomplete Application, indicating therein that the application had not been accorded a filing date because it had been deposited without at least one drawing as required pursuant to 35 U.S.C. §113. Thus, the application was not accorded a filing date. OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the required drawing figure(s) was (were) present on deposit, and provide a copy of the drawing(s), and set a two- (2-) month period for reply.

On 3 November, 2009, Petitioner submitted: a petition with fee and averred that drawings were not required for an understanding of the subject matter sought to be patented; no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of any drawing figure(s) averred to have been present on deposit; a copy of one (1) sheet of drawing figures (FIG 1)—however, as noted above, Petitioner averred that drawings were not required for an understanding of the subject matter sought to be patented. (Petitioner asserted that the drawing was sufficiently described in the specification.)

Because it is the practice of the Office to treat an application that contains at least one composition, 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 was made of the application papers deposited. A review of the application indicated that it appeared that there were no composition, process or method claim(s) present on deposit. The petition was dismissed on 22 December, 2009.

On 29 December, 2009, Petitioner resubmitted his petition; made no showing of completeness of the application on deposit, but nonetheless sought once again to obtain a 7 October, 2009, filing date, and stated that "Applicant respectfully requests the following: *** (2) **in the alternative**, an affirmative statement that the Application is entitled to the filing date upon which the drawing figure was submitted to the USPTO with the Petition, i.e., November 3, 2009, which was within the two-month window for response required by the Notice of Incomplete Application." (Emphasis the original.) Thus, Petitioner failed to state a choice; rather, Petitioner insisted that the Office make the choice for him. Previously the 22 December 2009, decision made clear that the Office would not make Petitioner's decisions for him. Thus, the 29 December, 2009, petition was dismissed on 22 March, 2010.

On 5 April, 2010, Petitioner re-advanced his petition—averring that he did not wish to engage in "semantic arguments," and demanded a filing date for the instant application. Yet, Petitioner for a third time failed to demonstrate that the application was due a filing date on deposit on 7 October, 2009. The petition was dismissed on 14 June, 2010.

Petitioner's 25 June, 2010, contention that the incompleteness of the application prior to 3 November, 2009, overcomes the question of amendment is accepted.

CONCLUSION

Accordingly, the application, including 13 pages of specification (description, claims and abstract) and 1 sheet of black and white drawing figures—including drawing FIG.1 described in the specification—is entitled to a filing date of 3 November, 2009.

The Notice mailed on 30 October, 2009, was not sent in error and is left undisturbed.

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

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

CONCLUSION

The petition is **granted**; as discussed above, the 30 October 2010, Notice was proper, will not be disturbed and the petition fee is not waived.

This application is released to OPAP for further processing with a filing date of 3 November, 2009, for the entire application including 13pages of specification (description, claims and abstract) and 1 sheet of black and white drawings including drawing FIG. 1 described in the specification using:

- **pages 1–13 of the specification (description, claims abstract) deposited on 7 October, 2009; and**

- **one (1) sheet of black and white drawing containing FIG 1 described in the specification deposited on 3 November, 2009; and further,**

with direction to OPAP to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 3 November, 2009, and reflecting therein that 13 pages of specification (description claims abstract), and 1 sheets of black and white drawings (FIG. 1) were present on filing.

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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).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. ' 1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner=s/Caller=s action(s).

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

---

[2] The regulations at 37 C.F.R. ' 1.2 provide:1

' 1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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7225 BEVERLY ST.
ANNANDALE VA 22003

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Su et al. :
Application No. 61/251,396 : DECISION ON PETITION
Filed: October 14, 2009 :
Attorney Docket No. 67407-003PRO :

This is a decision on the petition filed February 19, 2010, requesting that the above-identified provisional application be accorded a filing date of October 14, 2009.

The application was deposited on October 14, 2009. On December 31, 2009, the Office mailed a Notice of Incomplete Provisional Application, indicating that the specification was missing, and stating that the filing date would be the date of receipt of the required item.

On February 19, 2010, applicants filed the present petition and petition fee. Applicants assert:

> ... the specification has been submitted on 10/14/2009, but was labeled as drawings instead of specification. Applicant further respectfully requests the Office to re-label the submitted material as specification.
>
> Applicant respectfully submits that the material submitted on 10/14/2009 includes a description of the invention or discovery and of the manner and process of making and using the same, and is in clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

Petition, p. 1.

A review of the drawings filed on October 14, 2009, reveals that the pages contain a combination of text and drawings, which can be construed as a written description for the purpose of a filing date.

Accordingly, the present provisional application may be accorded the requested filing date of October 14, 2009.

The petition is **granted**.

Nevertheless, 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. Petitioners 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).

Furthermore, the Office reminds applicants 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). Therefore, the Office will not re-label the papers as specification as requested.

This matter is being referred to the Office of Patent Application Processing for further processing with a filing date of October 14, 2009.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

CTT

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIMOTHY A. JOHNSON
ENERGIZER PERSONAL CARE LLC.
10, LEIGHTON ROAD
MILFORD CT 06460

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Burgio, et al. :
Application No. 61/253,537 : DECISION
Filed/Deposited: 21 October, 2009 :
Attorney Docket No. SWS-1007 :

This is a decision on the improvidently filed on 11 November, 2009, and properly considered pursuant to 37 C.F.R. §1.53.

For the reasons set forth below, the petition pursuant to 37 C.F.R. §1.53 is **DISMISSED** without prejudice.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition pursuant to 37 C.F.R. §1.53 and §1.182."

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

BACKGROUND

The instant application was deposited on 21 October, 2009.

On 4 November, 2009, the Office of Patent Application Processing (OPAP) mailed a Notice of Omitted Items, indicating therein that the application had been accorded a filing date but without drawing FIGS 2, 3 3A, 3B, 4, 4A.

Thus, the application was accorded a filing date, but without those drawing figures.

OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the drawing figures FIGS 2, 3 3A, 3B, 4, 4A were present on deposit, and provide a copy of the drawings.

OPAP set a two- (2-) month period for reply.

On 11 November, 2009, Petitioner submitted:

- a petition fee—but no petition or statement of what Petitioner contends occurred and/or Petitioner's intent in this matter;

- no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of the drawing FIGS 2, 3 3A, 3B, 4, 4A on 21 October, 2009;

- a copy of eight (8) sheets of drawing figures and of what may include drawing FIGS 2, 3 3A, 3B, 4, 4A deposited on 21 October, 2009—however, as noted above. Petitioner included no petition or other statement setting forth Petitioner's intent in this matter.

ANALYSIS

After the instant application was deposited on 21 October, 2009, the Office of Patent Application Processing (OPAP) mailed on 4 November, 2009, a Notice of Omitted Items, indicating therein that the application had been accorded a filing date but without drawing FIGS 2, 3 3A, 3B, 4, 4A. OPAP indicated that Petitioner might: contend via petition (with support, *inter alia*, of e.g., a date-stamped receipt card (see: MPEP §503)) that the drawing figures FIGS 2, 3 3A, 3B, 4, 4A were present on deposit, and provide a copy of the drawings. And OPAP set a two- (2-) month period for reply.

On 11 November, 2009, Petitioner submitted: a petition fee—but no petition or statement of what Petitioner contends occurred and/or Petitioner's intent in this matter; no contemporaneous documentation (e.g., a date-stamped receipt card) evidencing deposit of the drawing FIGS 2, 3 3A, 3B, 4, 4A on 21 October, 2009; a copy of eight (8) sheets of drawing figures and of what may include drawing FIGS 2, 3 3A, 3B, 4, 4A deposited on 21 October, 2009. However, absent a petition and/or statement from Petitioner there is no way to determine Petitioner's intent in this matter—i.e., does Petitioner contend all drawing figures were present on deposit of the application, or does Petitioner want a filing date contemporaneous with the 11 November, 2009, submission of his petition, or some other alternative known only to Petitioner.

The Office will not attempt to fathom Petitioner's intent.

CONCLUSION

The petition is **dismissed** without prejudice; the error was not Office error, and the fee is not waived and was charged as authorized by Petitioner.

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[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

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United States Patent and Trademark Office
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JAN 13 2010

OFFICE OF PETITIONS

MERCHANT & GOULD PC
PO BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
McNamara, et al. :
Application No. 61/254,248 : DECISION GRANTING PETITION
Filed: October 23, 2009 :
Attorney Docket No. 14125.0001USP1

This is a decision on the petition filed November 12, 2009, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of October 23, 2009.

The petition is **GRANTED**.

The application was deposited on October 23, 2009. However, on November 6, 2009, the Office of Initial Patent Examination 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.

As stated in MPEP § 601.01(f), it is the practice of the 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 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 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 November 6, 2009, 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 has been refunded to petitioner's credit card.

The application is being forwarded to the Office of Patent Application Processing for further processing as a provisional application with a filing date of October 23, 2009, for indication that "0" sheets of drawings were present on filing.

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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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MAR 01 2010

In re Application of :
Michael F. Weber :
Application No. 61/254,692 : ON PETITION
Filed: October 24, 2009 :
Attorney Docket No. 65900US002 :

This is a decision in response to the petition under 37 CFR 1.10(e), filed December 7, 2009, requesting, in effect, that the above-identified application be accorded a filing date of October 24, 2009, instead of the presently accorded date of October 25, 2009.

Petitioner states that the application should be accorded a filing date of October 24, 2009. Petitioner explains that an electronic transmission of the original application began on October 24, 2009; however, the complete transmission was received two seconds after midnight USPTO time. The application was assigned Application No. 61/254,492, with a filing date of October 25, 2009. Since the earlier filing date was necessary, petitioner filed an identical application pursuant to 37 CFR 1.10 on October 24, 2009. In support, petitioners provided, *inter alia*, a post card receipt and a copy of the "Express Mail" mailing label receipt No. EM 262777183 US, showing a "Date-In" of "10 24 09." Petitioner notes that while the post card receipt for the application acknowledged the October 24, 2009 receipt date by the USPTO, the postcard failed to show an application number.

A review of the record of the application discloses that the application papers deposited on October 24, 2009 pursuant to 37 CFR 1.10 are present in the electronic file wrapper of the above-identified application. Therefore, the application is entitled to a filing date of October 24, 2009, using the application papers filed October 24, 2009.

Under the circumstance, the petition is granted.

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. Stephen C. Jensen 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. Jensen 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. Jensen, 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 application is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to **October 24, 2009** and issuance of a corrected filing receipt.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEPHEN C. JENSEN
HOLLINGSWORTH & FUNK, LLC
8500 NORMANDALE LAKE BLVD., SUITE 320
MINNEAPOLIS, MN 55437

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAX VENTILLA
THE MECHANICAL ZOO
138 10TH ST.
SAN FRANCISCO CA 94103

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
Ventilla et al. :
Application Number: 61/256324 : ON PETITION
Filed: 10/30/2009 :
For: REAL TIME, INTERACTIVE :
ANSWERS IN A SOCIAL NETWORK :
ENVIRONMENT :

This is a decision on the petition filed on December 18, 2009, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of October 30, 2009.

The petition is **GRANTED**.

The application was filed on October 30, 2009, without drawings. Accordingly, on November 10, 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 had been deposited without drawings.

In response, on December 18, 2009, the subject petition was filed. Petitioners assert that the application, as filed and without drawings, 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 October 30, 2009, 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 November 10, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of October 30, 2009, without drawings as a part of the original disclosure. As no petition fee is due, the fee payment of $400.00 with the subject petition will be credited to counsel's deposit account.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to October 30, 2009, 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

Cc:

CHRISTOPHER P. KING
FENWICK & WEST LLP
801 CALIFORNIA ST
MOUNTAIN VIEW CA 94041

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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APR 16 2010

OFFICE OF PETITIONS

In re Application of :
Michael Naso, et al. :
Application No.: 61/256,862 : ON PETITION
Filed: October 30, 2009 :
Atty Docket No.: CEN5276USPSP :

This is a decision on the petition filed January 19, 2010, requesting that the above-identified provisional application, without drawings, be accorded a filing date of October 30, 2009.

The petition is **GRANTED**.

The application was filed on October 30, 2009, without drawings. Accordingly, on November 23, 2009, the Office of Data Management, Application Assistance Unit 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 January 19, 2010, the present petition was filed. Petitioner concedes that the application was filed without drawings, but states that drawings are not necessary for an 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 statement by petitioner in the petition is accepted 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 November 23, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of October 30, 2009, without drawings as a part of the original disclosure.

Since the petition was necessitated by an error on the part of the USPTO, no petition fee is necessary. The $400 petition fee is being 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 October 30, 2009.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

In re Application of :
Daniel Brookoff :
Application No.: 61/260,575 : ON PETITION
Filed: November 12, 2009 :
Attorney Docket Number: :
59276.61

This is a decision on the petition filed December 7, 2009, requesting that the above-identified provisional application, without drawings, be accorded a filing date of November 12, 2009.

The petition is **GRANTED**.

The application was filed on November 12, 2009, without drawings. Accordingly, on December 3, 2009, the Office of Data Management, Application Assistance Unit 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 December 7, 2009, the present petition was filed. Petitioner concedes that the application was filed without drawings, but states that drawings are not necessary for an 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 statement by petitioner in the petition is accepted 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 3, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of November 12, 2009, without drawings as a part of the original disclosure.

Since the petition was necessitated by an error on the part of the USPTO, no petition fee is necessary. The $400 petition fee is being 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 12, 2009.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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INVISTA NORTH AMERICA S.A.R.L.
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON, DE 19808

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MAY 04 2010

OFFICE OF PETITIONS

In re Application of :
Tianyi Liao, et al. :
Application No.: 61/261,594 :
Filed: November 16, 2009 :
Atty Docket No.: LP6150USPRV :

ON PETITION

This is a decision on the petition filed January 27, 2010, requesting that the above-identified provisional application, without drawings, be accorded a filing date of November 16, 2009.

The petition is **GRANTED**.

The application was filed on November 16, 2009, without drawings. Accordingly, on November 27, 2009, the Office of Data Management, Application Assistance Unit 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 January 27, 2010, the present petition was filed. Petitioner concedes that the application was filed without drawings, but states that drawings are not necessary for an 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 statement by petitioner in the petition is accepted 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 November 27, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of November 16, 2009, without drawings as a part of the original disclosure.

Since the petition was necessitated by an error on the part of the USPTO, no petition fee is necessary. The $400 petition fee is being credited to counsel's deposit account.

The amendment filed January 27, 2010 will not be entered, since 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).

The application is being referred to the Office of Patent Application Processing for correction of the filing date to November 16, 2009.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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GIFFORD,KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY MI 48007-7021

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Robert E. Buxbaum et al.
Application No 61/261,860
Filed: November 17, 2009
Attorney Docket No: REB-15118/01

ON PETITION

This is a decision on the petition filed on January 4, 2010, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of November 17, 2009.

The petition is **GRANTED**.

The application was filed on November 17, 2009, without drawings. Accordingly, on December 3, 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 had been deposited without drawings.

In response, on January 4, 2010, the subject petition was filed. Petitioners assert 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). 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 and the names of all the inventors.

A review of the record reveals that the application papers deposited on November 17, 2009, contain at least one process and one composition claim. Accordingly, the application is treated as a provisional application containing at least some disclosure of a process and composition.

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 December 3, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of November 17, 2009, without drawings as a part of the original disclosure.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to November 17, 2009, 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 Karen Creasy at 571 272-3208.

Anthony Knight
Director
Office of Petitions

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MAY 10 2010

OFFICE OF PETITIONS

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

In re Application of :
Buonamici et al :
Application No: 61/262,342 : ON PETITION
Filed: 11/18/09 :
Attorney Docket No: PAT053927-US-PSP :

This is a decision on the petition filed on January 4, 2010, which is treated as a petition requesting that the above-identified provisional application, without drawings, be accorded a filing date of November 18, 2009.

The petition is **GRANTED**.

The application was filed on November 18, 2009, without drawings. Accordingly, on December 14, 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 had been deposited without drawings.

In response, on January 4, 2010, the subject petition was filed. Petitioners assert 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). 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 and the names of all the inventors.

A review of the record reveals that the application papers deposited on November 18, 2009, contain at least one method and one composition 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 December 14, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of November 18, 2009, without drawings as a part of the original disclosure. The petition fee will be refunded 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, 2009, 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 Karen Creasy at 571 272-3208.

Anthony Knight
Director
Office of Petitions

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Application of :
Daniel Brookoff :
Application No.: 61/262,391 : ON PETITION
Filed: November 18, 2009 :
Attorney Docket Number: :
59276.61

This is a decision on the petition filed December 18, 2009, requesting that the above-identified provisional application, without drawings, be accorded a filing date of November 18, 2009.

The petition is **GRANTED**.

The application was filed on November 18, 2009, without drawings. Accordingly, on December 14, 2009, the Office of Data Management, Application Assistance Unit 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 December 18, 2009, the present petition was filed. Petitioner concedes that the application was filed without drawings, but states that drawings are not necessary for an 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 statement by petitioner in the petition is accepted 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 14, 2009, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of November 18, 2009, without drawings as a part of the original disclosure.

Since the petition was necessitated by an error on the part of the USPTO, no petition fee is necessary. The $400 petition fee is being 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, 2009.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

In re Application of
Jean-Sebastien Garrigue
Application No. 61/262,664
Filed: November 19, 2009
Attorney Docket No. 0727-1014

: DECISION ON PETITION

This is a decision on the PETITION TO ACCORD A FILING DATE UNDER 37 CFR 1.53 (e) filed February 4, 2010, in response to the Notice of Incomplete Nonprovisional Application mailed June 30, 2005. The petition requests that the above identified application be accorded a filing date of November 19, 2009.

The petition is **GRANTED**.

The application was filed electronically via the Office's Electronic Filing System (EFS) on November 19, 2009. On January 29, 2010, however, the Office of Data Management mailed a NOTICE OF INCOMPLETE PROVISIONAL APPLICATION, stating that the application had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 U.S.C. 112 is required. The NOTICE also noted that the filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the items required were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $400.00 petition fee (37 CFR 1.17(f)). Further the NOTICE indicated that 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.

Petitioners assert that the Specification, Provisional Cover Sheet and Application Data Sheet were, in fact, filed on November 19, 2009. In support, petitioners have included a copy of the Acknowledgment Receipt, with a time stamp date of November 19, 2009, acknowledging receipt of, *inter alia*, "PROV-COVER-SHEET.pdf, ADS.pdf and SPEC.pdf".

Upon review, the specification and the application data sheet filed November 19, 2009

are of record with the originally filed application papers.[1] Therefore, the application, including the Specification and Application Data Sheet, was complete on filing and entitled to a filing date of November 19, 2009.

As this petition appears to have resulted from an error on the part of the USPTO rather than the applicant, the NOTICE OF INCOMPLETE PROVISIONAL APPLICATION is being withdrawn and the petition fee in the amount of $400.00 will be credited back to the credit card provided.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing with a filing date of November 19, 2009, 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]The file does not include a Provisional Cover Sheet nor does the papers submitted with the instant petition. However, as the Provisional Application Cover Sheet , in the form of an Application Data Sheet, has been provided all requirements have been satisfied.

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MCDERMOTT WILL & EMERY, LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE, CA 92612-7108

MAILED

JUN 0 3 2010

OFFICE OF PETITIONS

In re Application of :
Mark R. Alberding, et. al. :
Application No. 61/264,226 : DECISION GRANTNG PETITION
Filed: November 24, 2009 :
Attorney Docket No. 071226-007 :

This is a decision on the petition filed January 6, 2010 requesting that the above-identified provisional application be accorded a filing date of November 24, 2009.

The application was deposited on November 24, 2009. However, on December 28, 2009, the Office of Patent Application Processing mailed a Notice of Incomplete Provisional Application (Notice) requiring drawings and stating that the filing date of the application would be the date of receipt of the omitted drawings.

In response, on January 6, 2010, the present petition was filed. Petitioner states that "drawings are not necessary to properly disclose the invention" and, therefore, the application should be accorded the November 24, 2009 filing date without the drawings.

Since the petition contains a statement that the drawings are not necessary, the petition is **granted**.

In view of the above, the petition fee of $400 has been credited to petitioner's deposit account.

This application file is being referred to the Office of Patent Application Processing for further **processing with a filing date of** November 24, 2009.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/265,191	11/30/2009	Gary F. Hartnell	35-21(56922)A;(29135-156)	4729

EXAMINER

7590 12/30/2009

Armstrong Teasdale LLP (29135)
Christopher M. Goff
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

ART UNIT	PAPER NUMBER

NOTIFICATION DATE	DELIVERY MODE
12/30/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

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MAR 24 2010

OFFICE OF PETITIONS

Marshall, Gerstein & Borun LLP (Intermune)
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago IL 60606

In re Application of :
Williamson Ziegler Bradford et al. :
Application No. 61/266,753 : ON PETITION
Deposited: December 4, 2009 :
Attorney Docket No. 30481/30035 :

This is in response to the petition 37 CFR 1.53(e), filed January 28, 2010, requesting that the above-referenced application be accorded a filing date of December 4, 2009. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1]. Applicants also filed a petition to expedite under 37 CFR 1.182 on March 9, 2010.

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

The petition under 37 CFR 1.53(e)(2) is **GRANTED to the extent indicated below**.

Application papers in the above-identified provisional application were deposited on December 4, 2009. However, on January 21, 2010, 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 drawings. In response, applicants timely filed this petition. Petitioner argues that drawings are not necessary for an understanding of the invention and references MPEP 601.01(f).

Petitioner states that no claims were filed with the application but in fact the application was filed with 20 claims, all method claims. 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

[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.

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.

To the extent the instant petition requests a filing date of December 4, 2009 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee under 37 CFR 1.17(f) is being refunded to petitioner's deposit account.

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

- **correction of the filing date to December 4, 2009**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

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

David Bucci
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
61/269,009	06/19/2009	Dominique Andrea Behrens	

CONFIRMATION NO. 9425

DOMINIQUE A BEHRENS, PA
646 BROADOAK LOOP
LAKE FOREST, IL 32771

CONVERSION REQUEST

OC000000042325826

Date Mailed: 06/28/2010

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 **06/07/2010,** 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 is not accompanied by the amendment including at least one claim in compliance with 35 U.S.C. 112, second paragraph, as required by 37 CFR 1.53(c)(3).

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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Philip J. Lee
Suite 525
10050 Regency Circle
Omaha NE 68114

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OFFICE OF PETITIONS

In re Application of :
William Brush :
Application No. 61/269,530 : DECISION ON PETITION
Filed: June 25, 2009 :
Attorney Docket No. 27874.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 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 Non-Provisional Application (Notice), mailed July 15, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2009. A Notice of Abandonment was mailed March 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a surcharge fee of $25, and the remainder of the provisional filing fee of $10, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the fees are accepted as being unintentionally delayed.

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received April 5, 2010. Inquires regarding the status of the application should be directed to the Office of Patent Application Processing at 571-272-4000.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Lena Dickinson
425 S Aiken Ave
Apt 3
Pittsburgh PA 15232

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OFFICE OF PETITIONS

In re Application of
Gandini
Application No. 29/303,214
Deposited: February 2, 2008
Attorney Docket No. N/A
For: MALMAG: TROPICAL HEALTH SYSTEMS

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 10, 2008, requesting conversion of Application No. 29/303,214 to a provisional 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. Petitioner is advised that this is not a final agency decision.

An application filed under 37 CFR 1.53(b) may be converted to a provisional application provided a request for conversion is submitted along with the fee as set forth in 37 CFR 1.17(q) ($50.00). The request and fee must be submitted prior to the earlier of the abandonment of the nonprovisional application, the payment of the issue fee, the expiration of 12 months after the filing date of the nonprovisional application, or the filing of a request for statutory invention registration. MPEP 201.04(b).

In the present case, applicant submitted the request to convert on December 10, 2008. However, the Office has no record of receiving a petition fee of $400.00, which was purportedly enclosed. (Last line of first page of petition.) Therefore, it appears the request **and required fee of $50.00** were not filed prior to the expiration of 12 months after the filing date of the design application.

Unless petitioner can prove that the Office received the required fee amount ($50.00) by February 2, 2009, the petition cannot be granted. If petitioner has a postcard receipt that shows a $400.00 fee for this application was received by the Office by February 2, 2009, then petitioner is strongly encouraged to submit a copy of it with a reconsideration petition.

It is noted that Applicant Alberto Gandini filed the instant petition. However, the address on the petition is not the correspondence address cited when the application was deposited. The Office will direct all notices, official letters, and other communications relating to the application to the

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correspondence address. If a § 1.63 oath or declaration has not been filed by any of the inventors (as in the present case), the correspondence address may be changed by the party who filed the application. (Lena Dickinson). The Office will not engage in double correspondence with an applicant and a patent practitioner, or other entity, such as an assignee, except as deemed necessary by the Director. 37 CFR 1.33(a) A courtesy copy of the decision is being mailed to the address listed on the petition. However, absent an appropriate change of correspondence address request, all future correspondence will be mailed to the correspondence address identified when the application was electronically deposited.

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 should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: ALBERTO GANDINI
5400 ELMER STREET, APT. 2
PITTSBURGH, PA 15232

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Gandini
Application No. 29/303,214
Deposited: February 2, 2008
Attorney Docket No. N/A
For: MALMAG: TROPICAL HEALTH SYSTEMS

This is a decision on the petition under 37 CFR 1.183, filed April 23, 2009, requesting the Office waive 37 CFR 1.53(c)(2)(iii), which requires payment of the processing fee prior to the expiration of 12 months after the filing date of the nonprovisional application, in order to convert the nonprovisional application to a provisional application. The petition will be treated under 37 CFR 1.182.

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

The petition under 37 CFR 1.183 is **dismissed as moot**. However, the $400.00 fee will be retained as the Rule 182 petition fee.

An application filed under 37 CFR 1.53(b) may be converted to a provisional application provided a request for conversion is submitted along with the fee as set forth in 37 CFR 1.17(q) ($50.00). The request and fee must be submitted prior to the earlier of the abandonment of the nonprovisional application, the payment of the issue fee, the expiration of 12 months after the filing date of the nonprovisional application, or the filing of a request for statutory invention registration. MPEP 201.04(b).

In the present case, applicant submitted the request to convert on December 10, 2008. However, the Office has no record of receiving a petition fee of $400.00, which was purportedly enclosed. (Last line of first page of petition.) Therefore, it appears the request and required fee of $50.00 were not filed prior to the expiration of 12 months after the filing date of the design application.

While applicant did not submit the fee with the December 10, 2008 request to convert, a review of the application as filed supports applicant's assertion that it was intended to be a provisional application, but through applicant's inadvertent error, it was designated as a design application.

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It is noted applicant promptly submitted the required fee within two months of the mail date of the March 16, 2009 decision dismissing the December 10, 2008 request to convert.

In view thereof, the petition under 37 CFR 1.182 is **GRANTED**. Application No. 29/303,214 has been converted to a provisional application with a filing date of February 2, 2008.

After the mailing of this decision, the application will be referred to the Office of Patent Application Processing (OPAP) for further processing as a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(c), including assignment of the new provisional application number. The filing receipt for the provisional application number will be mailed by OPAP in due course. OPAP will inform applicant as to any additional requirements.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of :
Brent DRAVITZKI et al. :
Application No. 61/272,162 : DECISION ON PETITION
Filed: August 25, 2009 :
Attorney Docket No. IGS-4398-1003 :

This is a decision on the petition under 37 CFR 1.53(c) filed October 01, 2009, in response to the Notice of Omitted Items mailed September 11, 2009.

The petition is **GRANTED**.

Petitioner asserts that the notice mailed September 11, 2009 alleging that figures 3-42 to 3-44 were omitted from the application was issued in error. The petitioner has provided the Office with a copy of the missing drawing sheet and a postcard receipt with the USPTO date-stamped of August 25, 2009.

In view of the petition, the Office acknowledges the receipt of the alleged missing figures.

The $400.00 petition fee has been credited to petitioner's deposit account.

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

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

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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112 SOUTH WEST STREET
ALEXANDRIA VA 22314

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NOV 25 2009

OFFICE OF PETITIONS

In re Application of :
Alon Meir et al :
Application No. 61/272,336 : ON PETITION
Filed: September 15, 2009 :
Atty Docket No. 30346P :

This is a decision on the petition filed October 29, 2009, under 37 CFR 1.181 which is being treated as a petition under 37 CFR 1.53(e), stating that twenty-four (24) sheets of drawings were present on filing of the above-identified application.

The petition is **granted**.

The application was deposited on September 15, 2009. However, on October 22, 2009, 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 required drawings.

In response, on October 29, 2009, the instant petition and a copy of twenty-four (24) sheets of drawings were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twenty-four (24) sheets of drawings on September 15, 2009. A review of the application file indicates no presence of the twenty-four (24) sheets of drawings.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence supports the fact that twenty-four (24) sheets of drawings were in fact present on filing, the Notice mailed October 22, 2009 is vacated.

Since the twenty-four (24) sheets of drawings cannot be located in the Office, the copy of the twenty-four (24) sheets of drawings supplied on October 29, 2009 will be used for processing and examination purposes.

Additionally, the request for refund submitted with the petition on October 29, 2009, of the $400.00 petition fee will be credited to deposit account no. 14-0112 as authorized.

This matter is being referred to the Office of Patent Application Processing with a filing date of September 15, 2009, and for an indication that twenty-four (24) sheets of drawings were included on filing and for mailing of a corrected filing receipt.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Vitaly Shchukin
Gasteiner Str. 13
Berlin 10717 DE GERMANY

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APR 26 2010

OFFICE OF PETITIONS

In re Application of :
Ledentsov et al. :
Application No. 61/272476 : DECISION
Filing or 371(c) Date: 09/28/2009 : ON PETITION
Title of Invention: METHOD FOR :
ENCODING OF OPTICAL SIGNALS :

This is a Decision in response letter filed January 8, 2010, in response to a Notice of Omitted Items. Applicants request the Office check once again whether all of the drawing Figures were not filed together with the original provisional application. The letter is properly treated as a petition under 37 CFR 1.182.

The petition is dismissed.

Background

Application papers in the above-identified were filed on September 28, 2009. On October 15, 2009, the Office of Patent Application Processing mailed a Notice of Omitted Item(s) in a Provisional Application (hereinafter "Notice"), informing Applicant that the application had been accorded a filing date; however, Figures 2a-2d, 3a-3b, 4a-4d described in the specification appeared to have been omitted from the application.

The Notice informed Applicants that should they contend that the drawings were in fact deposited with this Office, Applicants should file a petition with evidence of such deposit. (Emphasis supplied). The Notice further advised that the failure to file a petition would be treated as a constructive acceptance of the application as-deposited with this Office, and that the application would maintain the filing date as of the date of deposit, and include only those papers present in this Office on the date of deposit.

The present petition

Applicants file the present petition and enclose Figures 2, 3, and 4, and ask that the Office check once again whether all of the drawing Figures were not filed together with the original provisional application.

Applicable Law, Rules and MPEP

The Manual of Patent Examining procedure ("MPEP") provides as follows:

> If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard.
> Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO, may be discarded.
> The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail.
> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate

> component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

MPEP 503.

Applicant is advised that the USPTO file is the official record of the papers actually received or filed. In this instance, the application file does not contain Figures 2a-2d, 3a-3b, 4a-4d filed on September 28, 2009. Moreover, Applicant has not included a return-receipt postcard evidencing receipt of Figures Figures 2a-2d, 3a-3b, 4a-4d on September 28, 2009. Applicants have thus failed to provide proof that Figures 2a-2d, 3a-3b, 4a-4d were present on-filing of the application.

The MPEP 601.01(d) cautions applicants that

> [i]n 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.

Conclusion

The petition is dismissed without prejudice. Applicants may file a request for reconsideration of petition and include the necessary showing that Figures 2a-2d, 3a-3b, 4a-4d were filed with the application on September 28, 2009. Otherwise, Applicants options are to accept the application as filed to include only the papers present in this Office on September 28, 2009, or Applicants may file a new and complete provisional application.

Petitioner is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Petitioner is further advised that there is an Office here available to provide assistance: the Inventor's Assistance Center, at 1-800-786-9199, for assistance in prosecuting the patent application.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUN 2 8 2010

OFFICE OF PETITIONS

In re Application of :
Frank M. Willis et al. :
Application No. 61/273,385 : DECISION ON PETITION
Filed: August 4, 2009 : TO WITHDRAW
Attorney Docket No. 6373-3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2010.

The request is **APPROVED**.

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

The request was signed by Vanitha M. Elgart, former attorney/agent associated with customer number 34678. Vanitha M. Elgart has been withdrawn. All other attorneys/agents will remain of record.

The correspondence address will remain the same until further notified by applicant.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

MAILED

JUL 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Hol et al.	:	
Application No. 61/273,517	:	DECISION GRANTING
Filed: August 4, 2009	:	PETITION
Attorney Docket No. 267716	:	

This is a decision on the petition filed June 22, 2010, requesting that the above-identified application be accorded a filing date of August 4, 2009. Currently, the filing date of August 5, 2009 has been assigned. The petition is properly treated as a petition under 37 CFR 1.10(c).

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 August 4, 2009, pursuant to 37 CFR 1.10. Applicants have submitted a copy of Express Mail label No. EH 904224961 US, showing an incomplete "Date Accepted" postal date. The same Express Mail receipt number was placed on the original Provisional Application for Patent Cover Sheet in the official file. Petitioner has also submitted a copy of a postal service sales receipt, which shows Express Mail label No. EH 904224961 US as having a receipt date of June 4, 2009.

To further substantiate petitioner's assertion that the package in question was deposited with the USPS as Express Mail on August 4, 2009, 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 August 4, 2009, at 11:50 p.m. at the Chicago, IL USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on August 4, 2009. Accordingly, the instant application is entitled to a filing date of August 4, 2009 and has been so accorded.

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

This matter is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to August 4, 2009 and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to Joan Olszewski at (571) 272-7751. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/420,821	04/09/2009	Linton Joseph Hall	

CONFIRMATION NO. 3233

CONVERSION REQUEST

Linotn J. Hall
7705 East Shore Drive
Sacramento, CA 95831

OC00000037375970

Date Mailed: 09/03/2009

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 **06/26/2009,** 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 **61/274,094.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/350,907	01/08/2009	ALbert Manuel Lopez JR.	

CONFIRMATION NO. 7763

Albert M Lopez Jr
4855 Sugarbush Ln
Holt, MI 48842

CONVERSION REQUEST

OC00000037376209

Date Mailed: 08/21/2009

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 **01/23/2009,** 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 **61/274,095.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/415,339	03/31/2009	Benarous	P09733US00/BAS

CONFIRMATION NO. 2543

881
STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

CONVERSION REQUEST

OC000000037434725

Date Mailed: 08/25/2009

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 **06/30/2009,** 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 **61/274,096.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/415,339	03/31/2009	Benarous	P09733US00/BAS

CONFIRMATION NO. 2543

881
STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

CONVERSION REQUEST

OC000000037434725

Date Mailed: 08/25/2009

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 **06/30/2009,** 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 **61/274,096.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/482,427	06/10/2009	Xiaolue Lai	027957-000400US

CONFIRMATION NO. 7162

CONVERSION REQUEST

87896
Townsend and Townsend and Crew LLP
Cadence Design Systems, Inc (Client #027957)
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

Date Mailed: 09/18/2009

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 **07/27/2009,** 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 **61/274,097.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/508,686	07/24/2009	Samir F. Farah	22976/04054

CONFIRMATION NO. 8478

24024
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

CONVERSION REQUEST

OC000000037435083

Date Mailed: 08/21/2009

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 **07/28/2009,** 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 **61/274,098.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/480,636	06/08/2009	Matthew Brian Bufford	Bufford01

CONFIRMATION NO. 3770

Matthew Bufford
3100 Main st. #126
Dallas, TX 75226

CONVERSION REQUEST

OC000000037461000

Date Mailed: 08/21/2009

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 **07/28/2009,** 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 **61/274,099.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/253,722	10/17/2008	Paul W. Robinson	198848003US

CONFIRMATION NO. 9954

CONVERSION REQUEST

Kathleen T. Petrich
Graham & Dunn PC
Suite 300 - Pier 70
2801 Alaskan Way
Seattle, WA 98121-1128

OC000000037565268

Date Mailed: 09/03/2009

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 **05/28/2009,** 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 **61/274,100.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
11/248,878	10/11/2005	Balaji Krishnamurthy	6067-04900

CONFIRMATION NO. 1092

CONVERSION REQUEST

65132
M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

OC00000037689715

Date Mailed: 09/08/2009

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 **11/25/2005,** 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 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 **61/274,101.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/248,878	10/11/2005	Balaji Krishnamurthy	6067-04900	1092

65132 7590 08/26/2009

M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER
CHANG, JON CARLTON

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
08/26/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent_docketing@intprop.com
ptomhkkg@gmail.com

Copied from 11248878 on 09/04/2009

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN TX 78767-0398

In Re Application of :
KRISHNAMURTHY, BALAJI et al. : DECISION
Application Serial No. 11/248,878 : ON PETITION
Filed: October 11, 2005 :
For: **INDEPENDENTLY ADJUSTING THE QUALITY LEVELS FOR LUMINANCE AND CHROMINANCE CHANNELS IN A DIGITAL IMAGE** :

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 25, 2005 requests conversion to a provisional application under 37 CFR 1.53(c)(2) and includes the requires fee

The petition is **GRANTED.** The application is being forwarded to the Office of Initial Patent Examination for further processing.

_____/Doris To/_____
Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

Copied from 11248878 on 09/04/2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/484,179	06/13/2009	Martin Nguyen	

CONFIRMATION NO. 1758

Martin Nguyen
13691 Palomar Street
Westminster, CA 92683

CONVERSION REQUEST

OC00000037784051

Date Mailed: 09/16/2009

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 **07/20/2009,** 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 **61/274,102.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/504,794	07/17/2009	Pekka AALTO	0696-0286PUS1

CONFIRMATION NO. 1832

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

CONVERSION REQUEST

OC000000037784078

Date Mailed: 09/21/2009

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 **08/10/2009,** 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 **61/274,103.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/544,740	08/20/2009	Curtis Bay Campbell	T-7783

CONFIRMATION NO. 9928

34014
CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

CONVERSION REQUEST

OC000000037784118

Date Mailed: 09/16/2009

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 **08/25/2009,** 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 **61/274,104.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/499,074	07/07/2009	Michael Cole Hutchison	Hutchison.004

CONFIRMATION NO. 9578

CONVERSION REQUEST

38424
DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

OC000000038229487

Date Mailed: 10/14/2009

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 **09/25/2009,** 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 **61/274,106.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/485,820	06/16/2009	Thomas J. Napolitano	055002.0002

CONFIRMATION NO. 3939

CONVERSION REQUEST

1209
WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH, VA 23462

OC000000038534187

Date Mailed: 10/30/2009

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 **10/21/2009,** 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 **61/274,107.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

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

In re Application of:
NAPOLITANO, THOMAS J. et al
Serial No.: 12/485,820
Filed: June 16, 2009
Docket: 055002.0002
Title: MARKING SYSTEM AND METHOD AND SCRATCH-OFF GAME CARD INCORPORATING SAME

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed October 21, 2009 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) has been paid.

The petition filed on October 21, 2009 requests conversion to a provisional application under 37 CFR 1.53(C) 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 petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

/Henry C. Yuen/

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

Copied from 12485820 on 11/03/2009

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/337,429	12/17/2008	Henrick K. Gille	GLAUKO.145A

CONFIRMATION NO. 3643

CONVERSION REQUEST

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 11/09/2009

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 **10/08/2009,** 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 **61/274,108.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
61/274,108	12/17/2008	Henrick K. Gille	GLAUKO.145A	3643

20995 7590 11/18/2009

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
HASAN, MOHAMMED A	

ART UNIT	PAPER NUMBER
2873	

NOTIFICATION DATE	DELIVERY MODE
11/18/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of:
Henrick K. Gille et al.
Serial No.: 12/337,429
Filed: December 17, 2008
For: GONIOSCOPE FOR IMPROVED VIEWING

DECISION ON PETITION
TO CONVERT APPLICATION

This is a decision on the petition under 37 C.F.R. § 1.53(c)(2), filed October 8, 2009, 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 Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/548,427	08/27/2009	Robert Paul Barrett	

CONFIRMATION NO. 7109

CONVERSION REQUEST

rob barrett
6633 promontory Drive
eden priaire, MN 55346

Date Mailed: 11/16/2009

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 **09/14/2009,** 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 **61/274,109.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/383,465	03/23/2009	Seth Temko	CPTN.P0013

CONFIRMATION NO. 3690

48947
ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

CONVERSION REQUEST

OC000000038942358

Date Mailed: 12/11/2009

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 **11/14/2009,** 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 **61/274,110.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/383,463	03/23/2009	Seth Temko	CPTN.P0009

CONFIRMATION NO. 9432

48947
ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

CONVERSION REQUEST

Date Mailed: 12/14/2009

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 **11/13/2009,** 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 **61/274,111.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/590,144	11/04/2009	Anastasi Zenetta Graham	

CONFIRMATION NO. 9266

CONVERSION REQUEST

Anastasia Zenetta Graham
619 Mo Phail Road
Lumberton, NC 28358

OC000000039214553

Date Mailed: 12/14/2009

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 **12/03/2009,** 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 **61/274,112.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/616,989	11/12/2009	James Thomas Dunn	80070-8202 ADB

CONFIRMATION NO. 3731

CONVERSION REQUEST

AIR MAIL
23529
ADE & COMPANY INC.
2157 Henderson Highway
WINNIPEG, MB R2G1P9
CANADA

OC000000039548440

Date Mailed: 01/14/2010

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 **12/18/2009,** 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 **61/274,113.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/616,989	11/12/2009	James Thomas Dunn	80070-8202 ADB

CONFIRMATION NO. 3731

CONVERSION REQUEST

AIR MAIL
23529
ADE & COMPANY INC.
2157 Henderson Highway
WINNIPEG, MB R2G1P9
CANADA

Date Mailed: 01/14/2010

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 **12/18/2009,** 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 **61/274,113.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

Copied from 12/616,989 on 05/13/2010

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/578,965	10/14/2009	Franklin Mann Grimberg	

CONFIRMATION NO. 7354

CONVERSION REQUEST

Franklin Grimberg
3108 Nestlewood Dr
Oak Hill, VA 20171

OC000000039554568

Date Mailed: 01/08/2010

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 **12/23/2009,** 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 **61/274,114.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/344,867	12/29/2008	Aleksandr A Mokhna	

CONFIRMATION NO. 6833

CONVERSION REQUEST

AIR MAIL
Aleksandr Mokhna
Kalinovaya 28 / 64
Dnepropetrovsk, 49026
UKRAINE

OC000000039754882

Date Mailed: 01/20/2010

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 **03/17/2009,** 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 **61/274,115.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/642,695	12/18/2009	Mei Sun	KLA-P3380/US

CONFIRMATION NO. 3043

83600
JDI Patent- KLA-Tencor Corp. Joint Customer Number
Joshua D. Isenberg/ JDI Patent
809 Corporate Way
Fremont, CA 94539

CONVERSION REQUEST

OC000000039817710

Date Mailed: 01/25/2010

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 **01/07/2010,** 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 **61/274,116.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/640,244	12/17/2009	Xiangping Chen	103702-3 (EMC-09-242)

CONFIRMATION NO. 8411

CONVERSION REQUEST

21125
NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

OC000000039819622

Date Mailed: 01/25/2010

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 **12/21/2009,** 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 **61/274,117.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/546,375	08/24/2009	Richard Dana Kopke	21252.23

CONFIRMATION NO. 3257

CONVERSION REQUEST

24919
MCAFEE & TAFT
TENTH FLOOR, TWO LEADERSHIP SQUARE
211 NORTH ROBINSON
OKLAHOMA CITY, OK 73102

OC00000039846149

Date Mailed: 02/01/2010

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 **08/26/2009,** 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 **61/274,118.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
Office of Patent Application Processing (OPAP)
(571) 272-4200, or 1-888-786-0101

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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
12/569,783	09/29/2009	Sylvain Courcoux	314.1002.01

CONFIRMATION NO. 8928

22883
SWERNOFSKY LAW GROUP PC
P.O. Box 390711
MOUNTAIN VIEW, CA 94039

CONVERSION REQUEST

OC000000040596037

Date Mailed: 03/16/2010

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 **01/20/2010,** 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 **61/274,119.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/632,252	12/07/2009	Gini Monique Taboika	93382-12

CONFIRMATION NO. 3482

CONVERSION REQUEST

AIR MAIL
22463
SMART & BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500, BOX 111
TORONTO, ON M5G 2K8
CANADA

Date Mailed: 03/22/2010

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 **02/09/2010,** 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 **61/274,120.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/456,902	06/24/2009	Rexford David Mensah	317651

CONFIRMATION NO. 2384

REXFORD MENSAH
1020 SPRUCE STREET
COLLINGDALE, PA 19023

CONVERSION REQUEST

OC000000040705954

Date Mailed: 03/22/2010

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 **11/13/2009,** 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 **61/274,121.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/653,673	12/17/2009	Norman L. Reuter	REU-10001-P

CONFIRMATION NO. 7178

93613
SCHERRER PATENT & TRADEMARK LAW P.C.
17 E. CRYSTAL LAKE AVE
CRYSTAL LAKE, IL 60014

CONVERSION REQUEST

OC00000040706746

Date Mailed: 03/19/2010

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 **02/01/2010,** 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 **61/274,122.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/650,384	12/30/2009	Prasanta Dash	SYMT-S09-1785

CONFIRMATION NO. 7175

CONVERSION REQUEST

91741
SYMANTEC CORPORATION
c/o Murabito Hao & Barnes LLP
Two North Market Street, Third Floor
San Jose, CA 95113

OC000000040824900

Date Mailed: 03/26/2010

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 **03/08/2010,** 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 **61/274,123.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/715,359	03/01/2010	David D. Halbert	37901-706.501

CONFIRMATION NO. 8589

21971
WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

CONVERSION REQUEST

OC000000040726594

Date Mailed: 03/23/2010

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 **03/05/2010,** 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 **61/274,124.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
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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
12/592,583	11/30/2009	Donna Marie White	

CONFIRMATION NO. 2137

CONVERSION REQUEST

Donna Lamb
Jean McCarter
Box 45
Pierce, ID 83546

OC000000040958478

Date Mailed: 04/27/2010

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 **02/16/2010,** 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 **61/274,125.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/571,467	10/01/2009	Robert Eugene Mau	50325-00008

CONFIRMATION NO. 2013

CONVERSION REQUEST

25231
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Date Mailed: 05/17/2010

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 **03/19/2010,** 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 **61/274,126.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/165,659	07/01/2008	Jing Jiang	081160U1

CONFIRMATION NO. 2243

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

CONVERSION REQUEST

OC000000041201663

Date Mailed: 04/27/2010

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 **04/27/2009,** 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 **61/274,127.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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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Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/655,122	12/24/2009	Neal Carlson	CED0225US

CONFIRMATION NO. 3324

23413
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

CONVERSION REQUEST

Date Mailed: 04/27/2010

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 **03/22/2010,** 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 **61/274,128.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
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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
12/397,229	03/03/2009	Robert Emil Hodge	069611-0750

CONFIRMATION NO. 7709

93764
Kythera Biopharmaceuticals, Inc.
c/o Swiss Tanner, P.C.
P.O. Box 1749
Los Altos, CA 94023-1749

CONVERSION REQUEST

Date Mailed: 05/04/2010

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 **02/25/2010,** 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 **61/274,129.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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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SEP 18 2009

OFFICE OF PETITIONS

In re Application of
Robert Emil Hodge et al
Application No. 12/397,229
Filed: March 3, 2009
Attorney Docket No. 069611-0750

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 14, 2009.

The request is **APPROVED**.

The request was signed by Antoinette Konski on behalf of the practitioners of record associated with Customer No. 38706.

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

All future correspondence will be directed to inventor Robert Emil Hodge at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert Emil Hodge
1607 Grissom Street
Thousand Oaks, CA 91362

Copied from 12397229 on 05/04/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/397,229	03/03/2009	Robert Emil Hodge	069611-0750

CONFIRMATION NO. 7709

POWER OF ATTORNEY NOTICE

38706
FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

OC000000037801781

Date Mailed: 09/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/14/2009.

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

/idingle/

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

Copied from 12397229 on 05/04/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/397,229	03/03/2009	Robert Emil Hodge	069611-0750

CONFIRMATION NO. 7709

Robert Emil Hodge
1607 Grissom Street
Thousand Oaks, CA 91362

POA ACCEPTANCE LETTER

OC000000037801853

Date Mailed: 09/17/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/14/2009.

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

/idingle/

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

Copied from 12397229 on 05/04/2010

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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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/397,229	03/03/2009	Robert Emil Hodge	069611-0750	7709

88984 7590 03/01/2010

Swiss Tanner, P.C.
P.O. Box 1749
Four Main Street, Suite 100
Los Altos, CA 94022

EXAMINER	
MAEWALL, SNIGDHA	
ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
03/01/2010	PAPER

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

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

Copied from 12397229 on 05/04/2010

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

Swiss Tanner, P.C.
P.O. Box 1749
Four Main Street, Suite 100
Los Altos CA 94022

MAR 0 1 2010

Hodge et al. :
Serial No.: 12/397,229 : CONVERSION TO PROVISIONAL
Filed: March 3, 2009 :
Attorney Docket No.: **069611-0750** :

This is in response to applicants' request, filed February 25, 2010, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions regard the conversion process please contact Janice Tippitt at 703-756-1477.

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
Technology Center 1600

Copied from 12397229 on 05/04/2010

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
12/635,269	12/10/2009	Steven D. Goedeke	P0034987.01

CONFIRMATION NO. 9026

27581
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

CONVERSION REQUEST

Date Mailed: 05/05/2010

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 **04/08/2010,** 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 **61/274,130.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/635,269	12/10/2009	Steven D. Goedeke	P0034987.01	9026

27581 7590 04/09/2010

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

EXAMINER	
ART UNIT	PAPER NUMBER
3766	

MAIL DATE	DELIVERY MODE
04/09/2010	PAPER

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

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

Copied from 12635269 on 05/04/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

In re Application of:
GOEDEKE, STEVEN D. et al
Serial No.: 12/635,269
Filed: Dec. 10, 2009
Docket: P0034987.01
Title: ACTIVE CIRCUIT MRI/EMI PROTECTION POWERED BY INTERFERING ENERGY FOR A MEDICAL STIMULATION LEAD AND DEVICE

DECISION ON PETITION FOR CONVERSON to PROVISIONAL APPLICATION UNDER 37 CFR 1.53(C)(2) and MPEP 601.01(C)

This is a decision on the petition for conversion to a provisional application filed April 8, 2010 under 37 CFR 1.53 (C) (2). A fee of $50.00 under 37 CFR § 1.17(q) has been paid.

The petition filed on April 8, 2010 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 petition is **GRANTED**. The application is being forwarded to the Office of Initial Patent Examination for further processing.

/Henry C. Yuen/

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

Copied from 12635269 on 05/04/2010

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
12/656,110	01/15/2010	Ron Rulkens	075122-0166

CONFIRMATION NO. 3478

CONVERSION REQUEST

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000041581919

Date Mailed: 05/18/2010

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 **03/25/2010,** 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 **61/274,131.** 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
12/731,733	03/25/2010	Scott K. Kuwada	21101.0149U2

CONFIRMATION NO. 1692

CONVERSION REQUEST

23859
Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

OC000000041594378

Date Mailed: 05/13/2010

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 **04/13/2010,** 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 **61/274,132.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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
12/589,289	10/21/2009	James D. Cliver	6370

CONFIRMATION NO. 7814

25280
Legal Department (M-495)
P.O. Box 1926
Spartanburg, SC 29304

CONVERSION REQUEST

OC000000042017031

Date Mailed: 06/09/2010

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 **04/06/2010,** 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 **61/274,133.** The filing receipt for the provisional application number will be mailed to the applicant by OPAP in due course.

SHIRLEY A HOLMES
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/589,289	10/21/2009	James D. Cliver	6370	7814

25280 7590 04/29/2010

Legal Department (M-495)
P.O. Box 1926
Spartanburg, SC 29304

EXAMINER	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
04/29/2010	PAPER

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

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

Copied from 12589289 on 06/10/2010

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

4/29/10

In re application of :
James D. Cliver et al :
Serial No. 12/589,289 : DECISION
Filed: October 21, 2009 : ON PETITION
For: FLAME RESISTANT SATEEN :
WEAVE FABRIC :

This is a decision on the REQUEST TO CONVERT NONPROVISIONAL APPLICATION TO PROVISIONAL APPLICATION, filed April 6, 2010.

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 Patent Application Processing (OPAP) for conversion to a provisional application.

/ Christine Tierney /

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Copied from 12589289 on 06/10/2010

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

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DEC 11 2009

OFFICE OF PETITIONS

In re Application of :
Debreczeny et al. :
Application No. 61/274,704 : DECISION ON PETITION
Filed: August 19, 2009 : PURSUANT TO
Attorney Docket No. 93-000220US : 37 C.F.R. § 1.10(C)
Title: OPTICAL METHODS FOR :
MONITORING OF BIREFRINGENT TISSUES :

This is a decision on the petition pursuant to 37 C.F.R. § 1.10(c), filed September 28, 2009, requesting the according of a filing date of August 19, 2009 to application number 61/274,704.

The application was deposited on August 17, 2009. On September 22, 2009, the Office mailed a filing receipt, indicating that application number 61/274,704 had been accorded a filing date of August 17, 2009.

With this petition, Petitioner has included a copy of Express Mail label number EM275060309US.[1]

Petitioner has alleged that the application was deposited on August 19, 2009, and the Patent Office has incorrectly assigned a filing date of August 17, 2009 to the present application. Petitioner has included a copy of the Express Mail label, and it

1 The Utility patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

is noted that the "date in" field is illegible. However, the label further contains a stamp that reads "AUG 19 2009." Although the application received a filing date of August 17, 2009, the evidence is convincing that the application papers were filed on August 19, 2009, and the Patent Office assigned the incorrect date to this application. Therefore, the application was entitled to a filing date of August 19, 2009.

Accordingly, the petition is **GRANTED**.

It is noted that Petitioner has included $130, however this petition does not carry a fee. As such, the $130 will be credited to Petitioner's Deposit Account in due course.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing. OPAP will accord a filing date of August 19, 2009 to this application, and will mail a corrected filing receipt.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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

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

COPY MAILED

JAN 19 2010

In re Application of
Nicholas A. Kotov
Application No. 61/275,528
Filed: August 31, 2009
Attorney Docket No. 2115-004169/US/PS1

DECISION GRANTING PETITION

This is a decision on the petition, filed October 27, 2009, requesting that the above-identified application be accorded a filing date of August 31, 2009, rather than the presently accorded date of September 1, 2009. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on August 31, 2009. In support, the petition is accompanied by a copy of Express Mail receipt No. WM184991296 US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of August 31, 2009.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on August 31, 2009.

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

This application file is being referred to the Office of Patent Application Papers (OPAP) for correction of the filing date to **August 31, 2009** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed April M. Wise at (571) 272-1642. Telephone inquiries related to Office of Patent Application Papers should be directed to their hotline at (571) 272-4100.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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
12/408,637	03/20/2009	Kelly Andrews	FAIR-001

CONFIRMATION NO. 9823

CONVERSION REQUEST

32035
Nancy Lord, Ltd
1970 N. LESLIE RD.
NO. 220
PAHRUMP, NV 89060

OC00000037726202

Date Mailed: 09/09/2009

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 **08/31/2009,** 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 **61/275,685.** 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
12/324,745	11/26/2008	Xin Chen	090446-0600

CONFIRMATION NO. 1189

CONVERSION REQUEST

90137
Metabolex, Inc.
c/o Swiss Tanner, P.C.
Four Main Street, Suite 100
P.O. Box 1749
Los Altos, CA 94023

OC000000037965506

Date Mailed: 09/24/2009

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 **09/10/2009,** 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 **61/275,686.** 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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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

GChen et al.	:
Serial No.: 12/324,745	: CONVERSION TO PROVISIONAL
Filed: November 26, 2008	:
Attorney Docket No.: **090446-0600**	:

This is in response to applicants' request, filed September 10, 2009, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions regard the conversion process please contact Janice Tippitt at 703-756-1477.

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
Technology Center 1600

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :

CHEN, Xin et al. :
Application No. 12/324,745 : DECISION ON PETITION
Filed: November 26, 2008 : TO WITHDRAW
Attorney Docket No. **090446-0600** : 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 04, 2009.

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

A review of the file record indicates that the power of attorney to Foley & Lardner LLP has been revoked by the assignee of the patent application on September 04, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **METABOLEX, INC.**
C/O SWISS TANNER, P.C.
FOUR MAIN STREET, SUITE 100
P.O. BOX 1749
LOS ALTOS CA 94023

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/319,089	12/31/2008	Pankai Goval	P29486

CONFIRMATION NO. 6716

CONVERSION REQUEST

59796
INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

OC000000038039602

Date Mailed: 09/29/2009

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 **03/09/2009,** 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 **61/275,687.** 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
12/462,403	08/03/2009	Thomas Hughes	ZAFG-040/00US 309940-2048

CONFIRMATION NO. 7402

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

CONVERSION REQUEST

OC000000038421071

Date Mailed: 10/22/2009

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 **10/19/2009,** 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 **61/275,688.** 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
12/359,297	01/24/2009	KARL W. GALLIS	08-209

CONFIRMATION NO. 4139

CONVERSION REQUEST

26057
J M HUBER CORPORATION
1000 Parkwood Circle, Ste. 1000
PATENT DEPARTMENT
Atlanta, GA 30339

OC000000038483315

Date Mailed: 10/28/2009

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 **10/21/2009,** 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 **61/275,689.** 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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/359,297	01/24/2009	KARL W. GALLIS	08-209	4139

26057 7590 10/26/2009

J M HUBER CORPORATION
1000 Parkwood Circle, Ste. 1000
PATENT DEPARTMENT
Atlanta, GA 30339

EXAMINER	
ROBERTS, LEZAH	
ART UNIT	**PAPER NUMBER**
1612	

NOTIFICATION DATE	DELIVERY MODE
10/26/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentsandtm@huber.com
patricia.ades@huber.com
cheryl.tubach@huber.com

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OCT 2 6 2009

J M HUBER CORPORATION
1000 Parkwood Circle, Ste. 1000
PATENT DEPARTMENT
Atlanta GA 30339

Gallis et al. :
Serial No.: 12/359,297 : CONVERSION TO PROVISIONAL
Filed: January 24, 2009 :
Attorney Docket No.: **08-209** :

This is in response to applicants' request, filed October 21, 2009, to convert this application to a provisional application.

The petition is **GRANTED**.

Should there be any questions regard the conversion process please contact Janice Tippitt at 703-756-1477.

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
Technology Center 1600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/323,480	11/26/2008	Chi-Chen Lee	MTKP0973USA

CONFIRMATION NO. 7830

27765
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

CONVERSION REQUEST

OC000000038976872

Date Mailed: 11/27/2009

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 **09/24/2009,** 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 **61/275,691.** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/323,480	11/26/2008	Chi-Chen Lee	MTKP0973USA	7830

27765 7590 11/18/2009

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

EXAMINER	
BOST, DWAYNE D	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
11/18/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

winstonhsu.uspto@gmail.com
Patent.admin.uspto.Rcv@naipo.com
mis.ap.uspto@naipo.com.tw

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Alexandria, VA 22313-1450
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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

In re Application of:
LEE, CHI-CHEN
Serial No.: 12/323,480
Filed: November 26, 2008
For: **METHOD FOR SETTING TRANSMISSION TIMING OF WIRELESS COMMUNICATION APPARATUS**

DECISION ON PETITION
TO CONVERT APPLICATION

This is a decision on the petition for conversion under 37 C.F.R. § 1.53(c)(2), filed September 24, 2009, 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 Patent Application Processing 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 the Office of Patent Application Processing in due course.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications
(571) 272-7629

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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
12/571,267	09/30/2009	Stewart Shannon Fields	20750P-013000US

CONFIRMATION NO. 1670

CONVERSION REQUEST

65656
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000039189461

Date Mailed: 12/10/2009

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 **11/26/2009,** 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 **61/275,692.** 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 DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/577,032	10/09/2009	Carsten Ziegler	08020.0071-00000

CONFIRMATION NO. 3383

CONVERSION REQUEST

60668
SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

OC000000039226922

Date Mailed: 12/14/2009

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 **12/03/2009,** 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 **61/275,693.** 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