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03 AUG 2007

Robert A. Green
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In re Application of	:	
LEACH INTERNATIONAL CORPORATION	:	DECISION ON PETITION
PCT No.: PCT/US06/05814	:	
Int. Filing Date: 17 February 2006	:	UNDER 37 CFR 1.10
Priority Date: 16 February 2005	:	
Atty. Docket No.: 56284P/L400	:	
For: POWER DISTRIBUTION SYSTEM USING SOLID STATE POWER CONTROLLERS	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.10(d)" filed 20 November 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 19 September 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 20 November 2006, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 19 September 2006,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, applicant's present renewed petition references two enclosures as evidence supplied by the USPS in support of applicant's contention that the Express Mail mailing in question was deposited with the USPS with sufficient postage on 16 February 2006. However, the referenced exhibits (Exhibit A: 20 October 2006 letter from Nina Torres to David Bailey and Exhibit B: attachment to letter to letter of 20 October 2006) were not included with the present filing. While applicant's present petition contains a synopsis of the letter and attachment it is not possible to consider the showing without the exhibits themselves.

Lastly, applicant quotes Ms. Torres as stating that "The carriers do not verify postage amounts but do verify postage is affixed." If the Express Mail mailing in question was returned to the sender because the postage affixed was insufficient, proof of initial acceptance of the Express Mail mailing by the USPS on 16 February 2006 will not result in an international filing date of 16 February 2006.

For the reasons stated above, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of	:	
LEACH INTERNATIONAL CORPORATION	:	DECISION ON PETITION
PCT No.: PCT/US06/05814	:	
Int. Filing Date: 16 February 2006	:	UNDER 37 CFR 1.10
Priority Date: 16 February 2005	:	
Atty. Docket No.: 56284P/L400	:	
For: POWER DISTRIBUTION SYSTEM USING SOLID STATE POWER CONTROLLERS	:	

This decision is in response to applicant's "Second Renewed Petition Under 37 CFR 1.10(d)" filed 06 September 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 03 August 2007, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 16 February 2006. Applicant was afforded two months to file any request for reconsideration.

On 06 September 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 03 August 2007,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, applicant previously submitted a copy of the firm Express Mail mailing log indicating that the subject Express Mail mailing, EV335428155US, was picked-up for mailing by the USPS on 16 February 2006. This log was initialed by a USPS employee. Parcel EV335428155US was subsequently returned to the firm and re-mailed resulting in a "Date-In" date of 17 February 2006. The outstanding question as to item 3 was the circumstances relating to the mailing being returned. Applicant has presently provided evidence which indicates that at the time the mailing was picked-up by the USPS it contained sufficient postage. Specifically, the parcel was returned with a note indicating that the mailing was being "returned for postage." Applicant has also supplied a letter from Ms. Nina Torres indicating that an Express Mail mailing would not be accepted and picked-up by the USPS if it did not contain postage. As such, these two pieces of evidence from the USPS, when taken in concert with the mailing log, satisfy item 3 above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.10(d) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 19 May 2006, as well as "Notification Relating to Priority Claim" (Form PCT/RO/111) mailed 18 October 2006 are hereby **VACATED**.

A corrected first page of the PCT request form is enclosed with this decision.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision, 1) restoration of the cancelled priority claim and 2) the preparation and mailing of a corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 16 February 2006 .

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Encl: Form RO/105 and Page one of PCT Request

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In re Application of	:	
LEACH INTERNATIONAL CORPORATION	:	DECISION ON PETITION
PCT No.: PCT/US06/05814	:	
Int. Filing Date: 16 February 2006	:	UNDER 37 CFR 1.10
Priority Date: 16 February 2005	:	
Atty. Docket No.: 56284P/L400	:	
For: POWER DISTRIBUTION SYSTEM USING SOLID STATE POWER CONTROLLERS	:	

This decision is in response to applicant's "Second Renewed Petition Under 37 CFR 1.10(d)" filed 06 September 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 03 August 2007, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 16 February 2006. Applicant was afforded two months to file any request for reconsideration.

On 06 September 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 03 August 2007,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, applicant previously submitted a copy of the firm Express Mail mailing log indicating that the subject Express Mail mailing, EV335428155US, was picked-up for mailing by the USPS on 16 February 2006. This log was initialed by a USPS employee. Parcel EV335428155US was subsequently returned to the firm and re-mailed resulting in a "Date-In" date of 17 February 2006. The outstanding question as to item 3 was the circumstances relating to the mailing being returned. Applicant has presently provided evidence which indicates that at the time the mailing was picked-up by the USPS it contained sufficient postage. Specifically, the parcel was returned with a note indicating that the mailing was being "returned for postage." Applicant has also supplied a letter from Ms. Nina Torres indicating that an Express Mail mailing would not be accepted and picked-up by the USPS if it did not contain postage. As such, these two pieces of evidence from the USPS, when taken in concert with the mailing log, satisfy item 3 above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.10(d) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 19 May 2006, as well as "Notification Relating to Priority Claim" (Form PCT/RO/111) mailed 18 October 2006 are hereby **VACATED**.

A corrected first page of the PCT request form is enclosed with this decision.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision, 1) restoration of the cancelled priority claim and 2) the preparation and mailing of a corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 16 February 2006 .

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08 JUN 2006

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In re Application of :
CISCO TECHNOLOGY, INC. :
PCT No.: PCT/US06/05982 : DECISION ON PETITION
Int. Filing Date: 22 February 2006 : UNDER 37 CFR 1.10
Priority Date: 03 March 2005 :
Attorney Docket No.: CISCP438.W0/1149W0 :
For: METHODS AND DEVICES FOR :
IMPROVING THE MULTIPLE
SPANNING TREE PROTOCOL

This decision is issued in response to applicant's "Petition for Corrected Filing Receipt" which is being treated as a petition under 37 CFR 1.10(d) filed 05 May 2006 to accord an international filing date of 21 February 2006 to the above-identified international application. No petition fee is required.

BACKGROUND

The present application has been accorded an international filing date of 22 February 2006 by the United States Receiving Office (RO/US).

On 24 April 2006, the United States Receiving Office mailed "Notification of Concerning Prescribed Fees" (Form PCT/RO/102) and "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) which indicated the international filing date as 22 February 2006.

On 05 May 2006, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EV615716544US. The petition is accompanied by "Customer Copy" of Express Mail label no. "#EV615716544US" showing a "date in" date of 2-22-06.

DISCUSSION

Applicant presently requests that the USPTO accord the above-identified international application a filing date of 21 February 2006. A review of the file reveals that the RO/US correctly accorded an international filing date of 22 February 2006 pursuant to 1.10(a). In the subject petition, applicant argues that the USPS incorrectly entered the "date-in" on the Express Mail label. 37 CFR 1.10(d) allows an applicant to petition to correct an incorrectly entered "date-in" of an Express Mail receipt and states that:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has not provided a satisfactory showing under 37 CFR 1.10(d)(3). Specifically, applicant has not provided any corroborative evidence that came into being after the deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Thus, petitioner has not provided a satisfactory showing under 37 CFR 1.10(d) and therefore, it is not possible to grant applicant's petition at this time.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 21 February 2006 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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12 MAY 2006

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/US06/06455 .12052006

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In re Application of :
INVESTIGEN, INC. :
PCT No.: PCT/US2006/006455 :
Int. Filing Date: 24 February 2006 :
Priority Date: 23 February 2005 : **DECISION**
Docket No.: 12973-36 :
For: METHODS AND COMPOSITIONS FOR :
DETECTING POLYNUCLEOTIDES :

This decision is in response to applicant's "Petition Under 37 C.F.R. §§ 1.182 or 1.183" ("Pet.") filed in the United States Receiving Office (RO/US) on 24 April 2006.

BACKGROUND

Applicant filed international application PCT/US2006/006455 using Express Mail service claiming priority to U.S. provisional application 60/655,929 filed 23 February 2005. The application was accorded an international filing date of 24 February 2006 by the RO/US.

On 31 March 2006, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date of the subject application is 24 February 2006 claiming priority to an earlier U.S. provisional application filed 23 February 2006.

On 24 April 2006, applicant filed the subject petition which was accompanied by, *inter alia*, a "Declaration of Donald J. Silvert" with associated exhibits.

DISCUSSION

Applicant requests that the Director grant the filing date of 23 February 2006 pursuant to 37 CFR 1.182 or 1.183.

Applicant explains that Dr. Silvert checked out of his building at 11:50:29 p.m. on 23 February 2006 to drop the documents containing the above-identified international application off at the U.S. Post Office. Petitioner claims that Dr. Silvert went to the wrong address at first but still arrived at the postal facility prior to midnight. However, Dr, Silvert admits that he was not seen by the postal clerks until approximately 12:15

a.m. on 24 February 2006. Dr. Silvert attempted to get the prior date (23 February 2006) as the date of deposit but was told that the Express Mail system was automated and could not be changed. Consequently, the Express Mail "Date In" on the Addressee Copy of the Express Mail label was listed as 24 February 2006.

It is first noted that the subject application was properly awarded an international filing date of 24 February 2006 by the USPTO pursuant to 37 CFR 1.10(a)(1).[1] But the Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 31 March 2006 erroneously indicated a priority date of 23 February 2005 which is more than 12 months preceding the international filing date.

For this reason, the Form PCT/RO/105 mailed 31 March 2006 is hereby **VACATED**.

A corrected Form PCT/RO/105 and a Invitation to Correct Priority Claim (Form PCT/RO/110) will be mailed with this decision.

Petition to Waive Rules Under 37 CFR 1.183

Regardless, applicant requests relief pursuant to 37 CFR 1.183[2] by having the RO/US award the above-captioned international application an international filing date of 23 February 2006. The $400.00 petition fee has been charged to Deposit Account No. 19-0733 as authorized.

Petitioner contends that Dr. Silvert "exercised at least ordinary care in preparing the application in time to file before midnight on February 23, 2006" and included evidence showing that Dr. Silvert left for the postal facility prior to midnight. Petitioner concludes that it was the delay of the U.S. Post Office and the automation of the equipment that caused applicants to miss the deadline. Petitioner argues that the rules for filing an application are set forth in 37 CFR 1.10 which are not statutory and may be waived.

---

[1] 37 CFR 1 10 Filing of Correspondence by "Express Mail"

(a) (1) 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.

[2] § 1.183 Suspension of rules.

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).

Applicant's argument has been considered and dismissed. The international filing date of 24 February 2006 accorded applicant was authorized under 35 U.S.C. 21(a) which states.

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

As such, the international filing date is the date the application was deposited with the USPS which is statutorily derived. Hence, the Director is not authorized to suspend or waive this date. *See* 37 CFR 1.183. Here, it is clear that the documents for the above-captioned application were not deposited with the USPS until 24 February 2006. Silvert Decl. at ¶ 15.

In addition, applicant has shown the existence of an extraordinary situation, where justice requires waiver of the provisions of 37 CFR 1.10 as requested. The facts presented in the petition do not meet this standard. Petitioner should have completed the work in the international application and left for the postal facility earlier. Petitioner should also have been aware that there was a possibility that there may be a line at the USPS near midnight.

Petition Under 37 CFR 1.182

Petitioner alternatively requests relief under 37 CFR 1.182 under situations not specifically provided for in the regulations "because the rules do not specifically provide for the situation in which an application is denied an express mail filing date because of Post Office delay.

This is treated under 37 CFR 1.181. No fee is required.

Petitioner argues that the USPTO allows customers who are not seen prior to midnight at their Customer Service Window to be date-stamped as received on the prior date and claim that "Express Mail is a recognized alternative to filing by hand at the U.S. PTO Customer Service Window . . . The same equitable considerations therefore apply. . . . "

However, the filing date given to an applicant using Express Mail is for date of deposit at the USPS, not date of receipt at the USPTO. As such, applicant must follow the procedures of the USPS to be awarded a date of deposit. In addition, petitioner

provided no evidence from the USPS that Dr. Silvert was in the postal facility prior to midnight. The evidence from the USPS submitted in the petition only shows that Dr. Silvert paid for the Express Mail filing at 12:19 a.m. on 24 February 2006. Exh. # 14.

Hence, applicant's request is dismissed.

CONCLUSION

For the reasons discussed above, applicant's petition is **DISMISSED** without prejudice.

Applicant could attempt to try to correct the date of deposit pursuant to 37 CFR 1.10(d). Any showing must be corroborated by evidence from the USPS of the delay in being served. *See* § 513 MPEP.

This application is being returned to the `RO/US for further processing and for the forwarding of a copy of the decision to the International Bureau.

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IAP15 Rec'd PCT/PTO 15 NOV 2006

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15 NOV 2006

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In re Application of :
INVESTIGEN, INC. :
PCT No.: PCT/US2006/006455 :
Int. Filing Date: 24 February 2006 :
Priority Date: 23 February 2005 : **DECISION**
Docket No.: 12973-36 :
For: METHODS AND COMPOSITIONS FOR :
DETECTING POLYNUCLEOTIDES :

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.181" filed in the United States Receiving Office (RO/US) on 28 August 2006.

BACKGROUND

On 12 May 2006, a decision dismissing applicant's petition was mailed.

On 28 August 2006, applicant filed the subject petition which was accompanied by, *inter alia*, a "Declaration of Magdalena O. Cilella" with associated exhibits.

DISCUSSION

Applicant renews their petition under 37 CFR 1.181 requesting that the Director grant an international filing date of 23 February 2006 in the subject application.

Petitioner offered a declaration by Magdalena O. Cilella and copies of USPS Transaction and Visit Count for the period in question. Petitioner argues that Dr. Silvert "did everything necessary to file a PCT application by Express Mail on 23 February 2006 . . . He exercised at least ordinary care in preparing the application in time to file before midnight on February 23, 2006." Petitioner asserts that "but for U.S. Post Office delay, the PCT application would have received an express mail stamp of February 23, 2006."

Applicant's argument is unconvincing.

The purported delay at the USPS does not relieve applicant of their obligation to reach the USPS in time to be **served** prior to midnight. Dr. Silvert did not leave for the USPS until there was less than ten minutes left to make the deadline. The resulting

delay in being served by the USPS was foreseeable.

Moreover, the evidence submitted in the renewed petition does **not** show that the USPS facility was **abnormally** busy during the period in question.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

This application is being returned to the RO/US for further processing and for the forwarding of a copy of the decision to the International Bureau.

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In re Application of :
INVESTIGEN, INC. :
PCT No.: PCT/US2006/006455 :
Int. Filing Date: 24 February 2006 : **FINAL**
Priority Date: 23 February 2005 : **AGENCY**
Docket No.: 12973-36 : **DECISION**
For: METHODS AND COMPOSITIONS FOR :
DETECTING POLYNUCLEOTIDES :

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §§ 1.181 or 1.182" filed in the United States Receiving Office (RO/US) on 14 June 2007.

BACKGROUND

Applicant filed international application PCT/US2006/006455 using Express Mail service claiming priority to U.S. provisional application 60/655,929 filed 23 February 2005. The application was accorded an international filing date (IFD) of 24 February 2006 by the RO/US.

On 31 March 2006, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the IFD of the subject application is 24 February 2006.

On 24 April 2006, applicant filed a petition requesting that the IFD be deemed 23 February 2006 which was accompanied by, *inter alia*, a declaration of Donald J. Silvert ("Silvert Decl.").

On 12 May 2006, a decision dismissing applicant's petition was mailed.

On 28 August 2006, a renewed petition was filed.

On 15 November 2006, a decision dismissing applicant's renewed petition was mailed.

On 14 June 2007, a renewed petition was filed requesting a final determination which was accompanied by, *inter alia*, a "Second Declaration of Dr. Donald Silvert" ("2d. Silvert Decl.") and authorization to charge any required fees to counsel's Deposit Account No. 19-0733.

DISCUSSION

Applicant renews their request that the Director grant an IFD of 23 February 2006 for the above-identified international application and request a final determination of this matter. A five-month extension fee has been charged to Deposit Account No. 19-0733 as authorized. The specific points to be reviewed in this decision are:

(1) Dr. Silvert did everything necessary to file the subject application by 23 February 2006 but was unavoidably delayed. This delay was a result of receiving incorrect directions by mailroom personnel at Brinks Hofer Gilson & Lione.

(2) The PCT was amended to provide for restoration of the right to priority. This change was entered into force on 01 April 2007. Applicant requests that the Director use his authority to award applicants the same benefit.

(3) Applicant also contends that it is USPTO policy that if an applicant reaches the USPS facility prior to midnight, he will be given the benefit of that date even if he does not reach the clerk until after midnight.

(1) Dr. Silvert Was Unavoidably Delayed to the USPS Facility.

In support of this request, applicant included a second declaration by Dr. Silvert who claims that he arrived at the Harrison Street Post Office in Chicago prior to midnight, but that he did not reach the postal clerk until approximately 12:15 a.m. on 24 February 2006. 2d. Silvert Decl. at ¶ 3.

As previously indicated, applicant must follow the procedures of the USPS to be awarded a date of deposit pursuant to 37 CFR 1.10. There is no unavoidable delay standard in meeting the requirements of 37 CFR 1.10(a). Moreover, it is unlikely that the facts in this case would meet the unavoidable delay standard.

The reasonably prudent person standard has been adopted in determining whether a delay was unavoidable. In other words, applicants and their agents are expected to exercise the care and diligence generally used and observed by prudent persons in relation to their most important business. *See In re Mattullath*, 38 App. D.C. 497, 514-15 (1912); *Ex Parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913). In the instant case, the failure to wait until the last minutes to file the PCT application could have been avoided by the exercise of reasonable care.

(2) The PCT was amended to provide for restoration of the right to priority pursuant to PCT Rule 26*bis*.3 for applications filed after 01 April 2007. Applicant requests that the subject application be given this same benefit.

Petitioner alternatively requests relief under 37 CFR 1.182 under situations not specifically provided for in the regulations. In this case, applicants request to obtain the relief available for applications filed after 01 April 2007 pursuant to PCT Rule 26*bis*.3 which allows for the restoration of the right to claim priority filed within two months after the priority date and in which the delay in filing the international application was either in spite of due care or unintentional.

However, this provision was not in force at the time of the filing the subject international application. Accordingly, this request is treated under 37 CFR 1.183, not 37 CFR 1.182.

Under 37 CFR 1.183, 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. 37 CFR 1.183 can be relied upon to waive the requirements of regulations in Part 1 of Title 37 of the Code of Federal Regulations only. However, the Director of the United States Patent and Trademark Office is not authorized under 37 CFR 1.183 to waive a requirement of the Treaty or its Regulations. Accordingly, the requirement that the international application has to be filed on, or after 01 April 2007 may not be waived.

Further, even for waiving requirements of U.S. regulations, 37 CFR 1.183 is limited by its own terms to extraordinary situations where justice requires such waiver. The facts presented in the petition do not meet this standard.

Dr. Silvert Reached the USPS Facility Prior to Midnight on 23 February 2006

Applicant argues that if a customer has correspondence to deposit at the Customer Service Window at the USPTO but does not reach the window until after midnight, the USPTO will date stamp the correspondence as received prior to midnight. Similarly, if applicant reaches the USPS postal facility prior to midnight but does not reach the counter until after midnight, the USPTO should also adjust the "Date In" to reflect a date of receipt at the USPS prior to midnight.

That is clearly not the case.

If applicant believes that they were awarded an incorrect "Date In" by the USPS, the procedures of 37 CFR 1.10(d) are required. Evidence from the USPS that the "Date In" placed on the Express Mail label was incorrect would be acceptable. Applicant has not provided such evidence. The USPTO has no authority to change the date of deposit with the USPS properly awarded pursuant to 35 U.S.C. 21(a).

Moreover, a review of the facts indicate that it is questionable whether Dr. Silvert reached the postal facility prior to midnight. In the initial petition, evidence in the form of a copy of the security record log was submitted showing that Dr. Silvert checked out of his building at 11:50:29 p.m. on 23 February 2006. Thus, Dr. Silvert had only nine and a half minutes to reach the postal facility. Dr. Silvert then left the building and got in his car and drove a distance of 2.16 miles to the corner of Harrison and Clark Streets. Dr. Silvert realized he was at the wrong address, drove around the block then got out and made a telephone call at a public telephone to find the correct location for the post office. Dr. Silvert states that it was less than half a mile to the USPS facility which he drove there directly. Dr. Silvert claims that he arrived at the garage of the post office, took the elevator to the second floor and still made it in the USPS before midnight as he "saw an analog clock behind and to the right of the counter that showed it was not yet midnight. Had a postal clerk been available, the filings would have occurred on February 23, 2006."

However, Dr. Silvert admits that he did not reach the counter until about 12:15 am. Moreover, the credit card receipt for payment of the Express Mail documents submitted in the initial petition was 12:19 am on 24 February 2006. Silvert Decl. at ¶ 12 - 15; Exhibit #14.

In the first decision mailed 12 May 2006, petitioner was requested to provide additional evidence from the USPS that Dr. Silvert was in the facility prior to midnight. On 28 August 2006, petitioner submitted evidence on the transactions performed by the USPS clerks at the West Harrison Street postal facility the night of 23 February 2006. However, this evidence does not support Dr. Silvert's claim that he arrived at the USPS facility prior to midnight. Moreover, the evidence also did not show that the USPS facility was abnormally busy during the period in question. Thus, the second petition was also dismissed. In the petition filed 14 June 2007, petitioner still has not provided evidence that the "Date In" on Express Mail label No. EV340922377US was incorrect.

For this reasons, applicant's request cannot be accepted.

CONCLUSION

Applicant's second renewed petition is **DENIED**.

This decision may be viewed as a final agency decision. *See* MPEP 1002.02(p)(4).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the

attention of the Office of PCT Legal Administration.

Charles A. Pearson
Director
Office of PCT Legal Administration

Tel.: (571) 272-3224

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

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13 JUL 2007

WILLIAM BENTZ
8106 SHANNON'S ALLEY
LAUREL, MD 20724

In re Application of BENTZ	:	
PCT Application No.: PCT/US2006/006728	:	
Int. Filing Date: 27 February 2006	:	DECISION
Priority Date Claimed: 25 February 2005	:	
Attorney Docket No.: 00100.002	:	
For: A CONVERGENCE SYSTEM AND METHOD	:	

This is in response to applicant's "Petition Under 37 CFR § 1.181 to Establish Prior Receipt in the PTO Under the PCT of Missing Specification Pages" filed 23 May 2007.

BACKGROUND

On 27 Feburary 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 06 June 2006, the RO/US mailed a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which indicated that pages 8, 9, 17, and 18 of the description were not present.

On 23 May 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that pages 8, 9, 17, and 18 of the description purportedly filed on 27 February 2006 are not present.

MPEP 503 states,

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and

> place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The present petition states that it is accompanied by "a copy of a date-stamped receipt showing that Applicant filed (and the receiving Office received) 20 sheets of description, 3 sheets of claims, 1 sheet of Abstract and 15 sheets of drawings of February 27, 2006, which includes pages 8, 9, 17, and 18 -- the missing specification pages according to the Communication dated June 6, 2006." However, a review of the application file reveals that such date-stamped receipt is not present.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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PCT Legal Examiner
PCT Legal Office

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19 JAN 2007

Lisa Allen
PSC 36
Box 229
APO AE, New York 09456

In re Application of	:	
Byrne	:	
PCT No.: PCT/US06/07137	:	
Int. Filing Date: 01 May 2006	:	DECISION
Priority Date: 23 February 2005	:	
Attorney's Docket No.: bk01_022005	:	
For: MULTI-PURPOSE CONTAINMENT APPARATUS AND METHOD OF USE	:	

This decision is in response to applicant's communication filed 27 September 2006 and subsequent email discussions between Ms. Allen and Matthias Reischle at WIPO.

BACKGROUND

On 18 February 2006, applicant filed papers that were assigned international application number PCT/US056/07137. The filed papers included a Request (form PCT/RO/101) prepared using PCT-SAFE and a diskette.

On 05 April 2006, an "INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION" (form PCT/RO/103) was mailed to applicant.

On 01 May 2006, applicant filed a communication indicating that applicant had tried to file the application electronically with WIPO via the internet with no success. Therefore, applicant sent this application to the USPTO. Applicant indicates that the description, claims, drawings and abstract were included on a diskette included with the filing.

On 20 June 2006, applicant filed a request for a correction of the priority claim from 23 February 2005 to 25 February 2005.

On 08 August 2006, a decision was mailed to applicant indicating that the international filing date of 01 May 2006 was correct, and that the priority claim was improper since the priority date fell more than one year before the filing of the international application.

On 27 September 2006, applicant asked that the application be forwarded to the International Bureau under PCT Rule 19.4(a)(iii). According to Ms. Allen, Mr. Reischle from WIPO had agreed to accept the application filed on the disk.

On 16 October 2006, Mr. Reischle was informed by email communication that the disk had been forwarded to the International Bureau (IB) on filing. The United States Receiving Office noted that the disk contained a PCT-Easy filing, and forwarded the disk to the IB. Mr. Reischle was able to locate the disk at the IB. On 15 November 2006, Mr. Reischle informed Ms. Allen that the description, claims and drawings were not on the disk as filed. On 17 November 2006, Ms. Allen informed Mr. Reischle that the applicant did not wish to go forward with the application since they would not receive a filing date, and would like a refund of the fees paid to the USPTO.

On 21 November 2006, Mr. Reischle contacted the USPTO to inform the Office of applicant's decision not to go forward with the application.

On 04 December 2006, applicant was faxed a communication indicating that the applicant did have a filing date of 01 May 2006, the date on which the filing was completed. Applicant was given the choice to accept the filing date 01 May 2006 and continue prosecution of the international application, or to withdraw the application and request a refund of the fees.

On 07 December 2006, applicant's agent faxed a communication to the USPTO indicating that she would like to go forward with her PCT application. However, this communication was not signed.

On 09 January 2007, applicant's agent filed a copy of the faxed communication indicating that applicant would like to go forward with the PCT application. This communication was signed.

DISCUSSION

Because Mr. Reischle was never able to find the application on the disk filed by applicant's agent on 18 February 2006, the application was not forwarded to the International Bureau as receiving Office under PCT Rule 19.4.

In light of Ms. Allen's statement that she would like to go forward with the application having a filing date of 01 May 2006, the request for a refund of the fees is moot. As a result of this request to prosecute the application, no fees will be refunded.

CONCLUSION

For the reasons above, the request for refund is deemed **MOOT**.

This application is being forwarded to the international processing section for processing in accordance with this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
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cc: International Bureau of WIPO

Enc: INVITATION TO CORRECT PRIORITY CLAIM (form PCT/RO/110)

06 NOV 2007

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Lansdale, PA 19446-0421

In re Application of:	:	
MEDICAL COMPONENTS, INC.	:	DECISION ON PETITION
PCT Application No.: PCT/US2006/008464	:	
International Filing Date: 09 March 2006	:	
Priority Date: 10 March 2005	:	
Atty Docket No.: 49962.00218	:	
For: CATHETER WITH LARGER DIAMETER PROXIMAL END PORTION	:	

This decision is issued in response to the "Correction Of International Filing Date And Correction Of Priority Claim" filed on 05 May 2006, and the "Request For Confirmation Of Corrected Filing Date" filed 05 October 2007, treated herein as a petition under 37 CFR 1.10(d) to correct the international filing date and a request under PCT Rule 26bis to add a second priority claim. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a transmittal letter that itemized the application contents, identified the "Express Mail" label number as EV716958845US, and indicated that the date of deposit was 10 March 2006.

On 20 April 2006, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 09 March 2006.

On 05 May 2006, applicant filed the "Correction Of International Filing Date And Correction Of Priority Claim" considered herein. The petition asserts that the proper international filing date is 10 March 2006. The petition is accompanied by a copy of the customer receipt for "Express Mail" label number EV716958845US; this receipt bears a "date in" of 09 March 2006, as well as a separate USPS stamp dated 10 March 2006. Applicant's 05 May 2006 submission also seeks to add a priority claim to U.S. application 11/372,571, filed 10 March 2006.

On 05 October 2007, applicant filed a "Request For Confirmation Of Corrected Filing Date" seeking confirmation that the international filing date and priority claim had been corrected pursuant to applicant's 05 May 2006 correspondence.

DISCUSSION

1. Request To Add Priority Claim (PCT Rule 26bis):

Applicant seeks to add a priority claim to U.S. application 11/372,571, filed 10 March 2006. The request to add the priority claim was filed before the expiration of the sixteen-month deadline set forth in PCT Rule 26bis.1(a). However, the priority claim which applicant seeks to add is improper in that it is not directed to an "earlier application," as required under PCT Rule 4.10. Specifically, the 10 March 2006 filing date of the priority application is not "earlier" than the international filing date of the present application.[1]

Because U.S. application 11/372,571 is not an earlier filed application that can serve as the basis for a proper priority claim in the present international application, applicant's request to add such priority claim is appropriately refused.

2. Petition To Correct International Filing Date (37 CFR 1.10(d)):

As noted above, the RO/US has accorded the present application an international filing date of 09 March 2006. This date corresponds to the "date in" entered by the USPS on the "Express Mail" envelope in which the application was filed, as evidenced by the copy of the "Express Mail" label provided by applicant with the present petition.

Applicant asserts that the "Express Mail" envelope containing the application materials was actually deposited with the USPS on 10 March 2006 and that the proper international filing date is therefore 10 March 2006. Applicant relies on the 10 March 2006 date stamp entered on the "Express Mail" label by the USPS as evidence for the requested filing date correction; however, the petition does not address the discrepancy between the 09 March 2006 "date-in" entered by the USPS and the separate 10 March 2006 date stamp.

37 CFR 1.10(d) sets forth the requirements for a grantable petition in such circumstances:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the 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] See PCT Rule 4.10(a)(i)(emphasis added): "the date on which the earlier application was filed, being a date falling within the period of 12 months **preceding** the international filing date." It is noted that, even if the international filing date herein is corrected to 10 March 2006, as requested by applicant, the requested priority claim would still be improper because an application filed on the same date as the international application is not an "earlier" application filed within "the period of 12 months preceding the international filing date."

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition was promptly filed, and the transmittal letter included with the original application papers set forth the "Express Mail" label number. Accordingly, items (1) and (2) are satisfied.

With respect to item (3), applicant has supplied a copy of the "Express Mail" mailing label and a statement from counsel that the "Express Mail" envelope was deposited on 10 March 2006. As noted above, the "date in" entered by the USPS on this label is 09 March 2006, but the label also bears a USPS stamp dated 10 March 2006. The USPS stamp dated 10 March 2006 is corroborating evidence form the USPS in support of applicant's assertion that the correct deposit date is 10 March 2006, as required under 37 CFR 1.10(d)(3); however, absent further information, it cannot be determined which of the two USPS notations is correct (i.e., the 09 March 2006 "date in" or the 10 March 2006 date stamp). Before it can be concluded that the proper deposit date herein is 10 March 2006, applicant must provide further evidence to resolve this contradiction, for example, a firsthand statement from the person who deposited the "Express Mail" envelope with the USPS confirming the 10 March 2006 deposit date, and/or USPS tracking information confirming the date of deposit.[2]

Absent further information, it cannot be concluded that the correct date of deposit for this "Express Mail" envelope is 10 March 2006, as indicated in the USPS date stamp, as opposed to 09 March 2006, as indicated the "date in" entered by the USPS. Item (3) has therefore not been satisfied. Accordingly, on the present record, correction of the international filing date to 10 March 2006 is not appropriate.

CONCLUSION

The petition for correction of the international filing date is **DISMISSED** without prejudice. The international filing date remains **09 March 2006**.

Applicants request to add a priority claim to U.S. application 11/372,571 is **REFUSED**.

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[2] It is noted that the petition includes a statement from counsel that the "Express Mail" envelope was deposited with the USPS on 10 March 2006, but it is not clear whether the attorney signing the petition is the person who made the deposit and therefore has the firsthand knowledge required to confirm such deposit.

If reconsideration on the merits is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include additional materials sufficient to confirm that the "Express Mail" envelope in which the present application was filed was deposited with the USPS on 10 March 2006, as discussed above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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0 8 NOV 2007

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In re Application of:
PERLEGEN SCIENCES, INC.
PCT Application No.: PCT/US2006/008464
International Filing Date: 03 June 2007
Priority Date: 05 June 2006
Atty Docket No.: 020654-001810US
For: GENETIC BASIS OF TREATMENT RESPONSE IN DEPRESSION PATIENTS

DECISION ON PETITION

This decision is issued in response to the correspondence filed by applicant on 27 September 2007, treated herein in part as a petition under 37 CFR 1.10(d) to correct the international filing date. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a transmittal letter that identified the "Express Mail" label number as EV529830630US and indicated that the date of deposit was 05 June 2007.

On 28 August 2007, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 03 June 2007.

On 27 September 2007, applicant filed correspondence that included a request to correct the international filing date to 05 June 2007, considered herein as a petition under 37 CFR 1.10. The petition is accompanied by a copy of the customer receipt for "Express Mail" label number EV529830630US; this receipt bears a "date in" of 03 June, as well as a separate USPS stamp dated 05 June (it is noted that the "date in" does not include a year, and the year listed in the separate date stamp is illegible).

DISCUSSION

As noted above, the RO/US has accorded the present application an international filing date of 03 June 2007. This date corresponds to the "date in" entered by the USPS on the "Express Mail" envelope in which the application was filed, as evidenced by the copy of the "Express Mail" label provided by applicant with the present petition.

Applicant asserts that the "Express Mail" envelope containing the application materials was actually filed on 05 June 2007 and that the proper international filing date is therefore 05 June 2007. Applicant relies on the 05 June date stamp entered on the "Express Mail" label by the USPS as evidence for the requested filing date correction; however, the petition does not address the discrepancy between the 03 June "date-in" entered by the USPS and the separate 05 June date stamp.

37 CFR 1.10(d) sets forth the requirements for a grantable petition in such circumstances:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition was promptly filed, and the transmittal letter included with the original application papers set forth the "Express Mail" label number. Accordingly, items (1) and (2) are satisfied.

With respect to item (3), applicant has supplied a copy of the "Express Mail" mailing label and a statement from counsel that the application was filed on 05 June 2007. As noted above, the "date in" entered by the USPS on this label is 03 June, but the label also bears a USPS stamp dated 05 June. The USPS stamp dated 05 June is corroborating evidence form the USPS in support of applicant's assertion that the correct deposit date is 05 June 2007, as required under 37 CFR 1.10(d)(3); however, absent further information, it cannot be determined which of the two USPS notations is correct (i.e., the 03 June "date in" or the 05 June date stamp). Before it can be concluded that the proper deposit date herein is 05 June 2007, applicant must provide further evidence to resolve this contradiction, for example, a firsthand statement from the person

who deposited the "Express Mail" envelope with the USPS confirming the 05 June 2007 deposit date, and/or USPS tracking information confirming the date of deposit.[1]

Absent further information, it cannot be concluded that the correct date of deposit for this "Express Mail" envelope is 05 June, as indicated in the USPS date stamp, as opposed to 03 June, as indicated in the "date in" entered by the USPS. Item (3) has therefore not been satisfied. Accordingly, on the present record, correction of the international filing date to 05 June 2007 is not appropriate.

CONCLUSION

The petition for correction of the international filing date is **DISMISSED** without prejudice. The international filing date remains **05 June 2007**.

If reconsideration on the merits is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include additional materials sufficient to confirm that the "Express Mail" envelope in which the present application was deposited with the USPS on 05 June 2007, as discussed above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
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[1] It is noted that the petition includes a statement from counsel that the application was filed on 05 June 2007, but it is not clear whether the attorney signing the petition is the person who made the deposit with the USPS and therefore has the firsthand knowledge required to confirm such deposit.

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PCT/US06/08681 17 NOV 2006

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17 NOV 2006

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In re Application of
STACKLIN, Alan J.
PCT No.: PCT/US06/08681
Int. Filing Date: 31 March 2006
Priority Date: None
Atty. Docket No.: 209766.0001 PCT
For: AUTOMATED FEATURE-BASED ANALYSIS COST MANAGEMENT OF MATERIALS

DECISION ON PETITION

This decision is issued in response to applicant's "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled 'Automated Feature-based Analysis Cost Management of Materials'" filed on 31 March 2006. No petition fee is required.

BACKGROUND

On 09 March 2006, applicant filed materials to initiate international application PCT/US06/08681. The application claimed a priority date of 09 March 2005. As specifically indicated by applicant on the PCT Request (Form PCT/RO/101) filed on 09 March 2006, the submission included 8 pages of Request, 0 pages of Description, 45 pages of Claims; 17 pages of Drawings, 1 page of Abstract and a postcard receipt. The return postcard receipt was returned to applicant indicating that the international application contained "no description, no claims, no abstract, and no drawings."

In response to the postcard receipt, applicant filed on 31 March 2006, "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled "Automated Feature-based Analysis Cost Management of Materials'." The submission states that "applicant hereby submits a duplicate copy of the application entitled Automated Feature-based Analysis Cost Management of Materials including a description, claims, abstract, and drawing which was previously filed on March 9, 2006."

On 01 May 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006.

DISCUSSION

The Notification Of The International Application Number And Of The International Filing Date issued by the RO/US (dated 01 May 2006) expressly accorded the present application an international filing date of 09 March 2006. PCT Rule 20.2(a) states in part:

> (a) In the cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request . . . so that it indicates the day on which the papers completing the international application were received....

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. However, the copy of the "postcard" submitted with the petition bearing a date stamp of "09 MAR 2006 for this application does not clearly itemize the number of pages of the description, claims, abstract, and drawing that are being submitted. A hand written entry regarding the non-receipt of the description, claims, abstract, and drawing had been placed on the postcard receipt by Patent and Trademark Office (PTO) personnel as noted. The Office procedure for any papers not present in a package that were specifically identified on a postcard receipt is for the post card to be annotated to indicate that the papers were not received. Hence, the postcard receipt is not prima facie evidence of what was filed on 09 March 2006.

The submission of sheets pertaining to the same international application received later than the international filing date is specifically provided for by PCT Rule 20.2(a). The Treaty requires that any sheets submitted within 30 days from the international filing date be accepted and the international filing date be reset to the date on which the later submitted sheets were submitted. In this case, the description, claims, abstract, and drawing were received within 30 days of the international filing date. **Therefore, the international filing date has been changed to 31 March 2006.**

CONCLUSION

For the reasons discussed above, the petition to accept the description, claims, abstract, and drawing submitted on 31 March 2006 as having been filed on 09 March 2006 is **DISMISSED** without prejudice.

Applicant's international filing date is 31 March 2006.

The Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006 is hereby **VACATED**.

Any reconsideration on the merits of this petition must be promptly filed and should include a cover letter entitled "Petition Under 37 CFR 1.182" with the appropriate fee

under 37 CFR 1.17(h).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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Telephone: 571-272-3298
Fax: 571-273-0459

cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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17 NOV 2006

RECEIVED
NOV 21 2006
By

Howard B. Rockman
Sachnoff & Weaver, Ltd.
10 S. Wacker Drive
Chicago, IL 60606-7507

In re Application of
STACKLIN, Alan J.
PCT No.: PCT/US06/08681
Int. Filing Date: 31 March 2006
Priority Date: None
Atty. Docket No.: 209766.0001 PCT
For: AUTOMATED FEATURE-BASED ANALYSIS COST MANAGEMENT OF MATERIALS

DECISION ON PETITION

This decision is issued in response to applicant's "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled 'Automated Feature-based Analysis Cost Management of Materials'" filed on 31 March 2006. No petition fee is required.

BACKGROUND

On 09 March 2006, applicant filed materials to initiate international application PCT/US06/08681. The application claimed a priority date of 09 March 2005. As specifically indicated by applicant on the PCT Request (Form PCT/RO/101) filed on 09 March 2006, the submission included 8 pages of Request, 0 pages of Description, 45 pages of Claims, 17 pages of Drawings, 1 page of Abstract and a postcard receipt. The return postcard receipt was returned to applicant indicating that the international application contained "no description, no claims, no abstract, and no drawings."

In response to the postcard receipt, applicant filed on 31 March 2006, "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled "Automated Feature-based Analysis Cost Management of Materials'." The submission states that "applicant hereby submits a duplicate copy of the application entitled Automated Feature-based Analysis Cost Management of Materials including a description, claims, abstract, and drawing which was previously filed on March 9, 2006."

On 01 May 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006.

DISCUSSION

The Notification Of The International Application Number And Of The International Filing Date issued by the RO/US (dated 01 May 2006) expressly accorded the present application an international filing date of 09 March 2006. PCT Rule 20.2(a) states in part:

> (a) In the cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request . . . so that it indicates the day on which the papers completing the international application were received....

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. However, the copy of the "postcard" submitted with the petition bearing a date stamp of "09 MAR 2006 for this application does not clearly itemize the number of pages of the description, claims, abstract, and drawing that are being submitted. A hand written entry regarding the non-receipt of the description, claims, abstract, and drawing had been placed on the postcard receipt by Patent and Trademark Office (PTO) personnel as noted. The Office procedure for any papers not present in a package that were specifically identified on a postcard receipt is for the post card to be annotated to indicate that the papers were not received. Hence, the postcard receipt is not prima facie evidence of what was filed on 09 March 2006.

The submission of sheets pertaining to the same international application received later than the international filing date is specifically provided for by PCT Rule 20.2(a). The Treaty requires that any sheets submitted within 30 days from the international filing date be accepted and the international filing date be reset to the date on which the later submitted sheets were submitted. In this case, the description, claims, abstract, and drawing were received within 30 days of the international filing date. **Therefore, the international filing date has been changed to 31 March 2006.**

CONCLUSION

For the reasons discussed above, the petition to accept the description, claims, abstract, and drawing submitted on 31 March 2006 as having been filed on 09 March 2006 is DISMISSED without prejudice.

Applicant's international filing date is 31 March 2006.

The Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006 is hereby VACATED.

Any reconsideration on the merits of this petition must be promptly filed and should include a cover letter entitled "Petition Under 37 CFR 1.182" with the appropriate fee

under 37 CFR 1.17(h).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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31 JUL 2007

Howard B. Rockman
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In re Application of
STACKLIN, Alan J.
PCT No.: PCT/US06/08681
Int. Filing Date: 09 March 2006
Priority Date: 09 March 2005
Atty. Docket No.: 209766.0001 PCT
For: AUTOMATED FEATURE-BASED ANALYSIS COST MANAGEMENT OF MATERIALS

DECISION ON PETITION

This decision is issued in response to applicant's "Petition under 37 CFR 1.182" filed on 25 January 2007. The $400 petition fee has been charged to Deposit Account no. 19-0011.

BACKGROUND

On 09 March 2006, applicant filed materials to initiate international application PCT/US06/08681. The application claimed a priority date of 09 March 2005. As specifically indicated by applicant on the PCT Request (Form PCT/RO/101) filed on 09 March 2006, the submission included 8 pages of Request, 0 pages of Description, 45 pages of Claims; 17 pages of Drawings, 1 page of Abstract and a postcard receipt. The return postcard receipt was returned to applicant indicating that the international application contained "no description, no claims, no abstract, and no drawings."

In response to the stamped postcard receipt, applicant filed on 31 March 2006, "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled "Automated Feature-based Analysis Cost Management of Materials'." The submission states that "applicant hereby submits a duplicate copy of the application entitled Automated Feature-based Analysis Cost Management of Materials including a description, claims, abstract, and drawing which was previously filed on March 9, 2006."

On 01 May 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006.

On 14 September 2006, the World Intellectual Property Organization (WIPO) published the above-identified international application. The published application listed 09 March 2006 as the international filing date.

On 17 November 2006, the Office of PCT Legal Administration mailed a "Decision on Petition" indicating the international filing date for the above-identified application was 31 March 2006.

On 25 January 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The Notification Of The International Application Number And Of The International Filing Date issued by the RO/US (dated 01 May 2006) expressly accorded the present application an international filing date of 09 March 2006. PCT Article 14(4) states the following:

> If, after having accorded an international filing date to the international application, the receiving Office finds, within the prescribed time limit, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the said application shall be considered withdrawn and the receiving Office shall so declare.

As set forth in PCT Rule 30.1, the "time limit referred to in Article 14(4) shall be four months from the international filing date." Thus, the time limit here for the RO/US to withdraw the according of the international filing date was four months from the accorded date of 09 March 2006, i.e., 09 July 2006. The RO/US did not withdraw the accorded international filing date during the period permissible under PCT Article 14(4).

Based on the above, it is not germane whether or not the international application contained (on 09 March 2006) "a part which on the face of it appears to be a claim or claims," as required by PCT Article 11(1)(iii)(e). PCT Article 14(4) precludes the RO/US from withdrawing the 09 March 2006 international filing date accorded to this international application in the Notification Of The International Application Number And Of The International Filing Date dated 01 May 2006. Accordingly, the present international application has an international filing date of 09 March 2006.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED** only to the extent that this international application has the requested international filing date of 09 March 2006.

The 09 March 2005 priority claim has been restored.

A copy of this decision and the newly issued "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) dated 03 August 2006 will be forwarded to the International Bureau.

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UNITED STATES PATENT AND TRADEMARK OFFICE

PCT/US06/08681 . 17112006

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17 NOV 2006

Howard B. Rockman
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In re Application of
STACKLIN, Alan J.
PCT No.: PCT/US06/08681
Int. Filing Date: 31 March 2006
Priority Date: None
Atty. Docket No.: 209766.0001 PCT
For: AUTOMATED FEATURE-BASED ANALYSIS COST MANAGEMENT OF MATERIALS

DECISION ON PETITION

This decision is issued in response to applicant's "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled 'Automated Feature-based Analysis Cost Management of Materials'" filed on 31 March 2006. No petition fee is required.

BACKGROUND

On 09 March 2006, applicant filed materials to initiate international application PCT/US06/08681. The application claimed a priority date of 09 March 2005. As specifically indicated by applicant on the PCT Request (Form PCT/RO/101) filed on 09 March 2006, the submission included 8 pages of Request, 0 pages of Description, 45 pages of Claims; 17 pages of Drawings, 1 page of Abstract and a postcard receipt. The return postcard receipt was returned to applicant indicating that the international application contained "no description, no claims, no abstract, and no drawings."

In response to the postcard receipt, applicant filed on 31 March 2006, "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled "Automated Feature-based Analysis Cost Management of Materials'." The submission states that "applicant hereby submits a duplicate copy of the application entitled Automated Feature-based Analysis Cost Management of Materials including a description, claims, abstract, and drawing which was previously filed on March 9, 2006."

On 01 May 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006.

DISCUSSION

The Notification Of The International Application Number And Of The International Filing Date issued by the RO/US (dated 01 May 2006) expressly accorded the present application an international filing date of 09 March 2006. PCT Rule 20.2(a) states in part:

> (a) In the cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request . . . so that it indicates the day on which the papers completing the international application were received....

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. However, the copy of the "postcard" submitted with the petition bearing a date stamp of "09 MAR 2006 for this application does not clearly itemize the number of pages of the description, claims, abstract, and drawing that are being submitted. A hand written entry regarding the non-receipt of the description, claims, abstract, and drawing had been placed on the postcard receipt by Patent and Trademark Office (PTO) personnel as noted. The Office procedure for any papers not present in a package that were specifically identified on a postcard receipt is for the post card to be annotated to indicate that the papers were not received. Hence, the postcard receipt is not prima facie evidence of what was filed on 09 March 2006.

The submission of sheets pertaining to the same international application received later than the international filing date is specifically provided for by PCT Rule 20.2(a). The Treaty requires that any sheets submitted within 30 days from the international filing date be accepted and the international filing date be reset to the date on which the later submitted sheets were submitted. In this case, the description, claims, abstract, and drawing were received within 30 days of the international filing date. **Therefore, the international filing date has been changed to 31 March 2006.**

CONCLUSION

For the reasons discussed above, the petition to accept the description, claims, abstract, and drawing submitted on 31 March 2006 as having been filed on 09 March 2006 is **DISMISSED** without prejudice.

Applicant's international filing date is 31 March 2006.

The Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006 is hereby **VACATED**.

Any reconsideration on the merits of this petition must be promptly filed and should include a cover letter entitled "Petition Under 37 CFR 1.182" with the appropriate fee

under 37 CFR 1.17(h).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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17 NOV 2006

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In re Application of
STACKLIN, Alan J.
PCT No.: PCT/US06/08681
Int. Filing Date: 31 March 2006
Priority Date: None
Atty. Docket No.: 209766.0001 PCT
For: AUTOMATED FEATURE-BASED ANALYSIS COST MANAGEMENT OF MATERIALS

DECISION ON PETITION

This decision is issued in response to applicant's "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled 'Automated Feature-based Analysis Cost Management of Materials'" filed on 31 March 2006. No petition fee is required.

BACKGROUND

On 09 March 2006, applicant filed materials to initiate international application PCT/US06/08681. The application claimed a priority date of 09 March 2005. As specifically indicated by applicant on the PCT Request (Form PCT/RO/101) filed on 09 March 2006, the submission included 8 pages of Request, 0 pages of Description, 45 pages of Claims, 17 pages of Drawings, 1 page of Abstract and a postcard receipt. The return postcard receipt was returned to applicant indicating that the international application contained "no description, no claims, no abstract, and no drawings."

In response to the postcard receipt, applicant filed on 31 March 2006, "Submission of Duplicate Copy of PCT Application Serial no. PCT/US06/08681 entitled "Automated Feature-based Analysis Cost Management of Materials'." The submission states that "applicant hereby submits a duplicate copy of the application entitled Automated Feature-based Analysis Cost Management of Materials including a description, claims, abstract, and drawing which was previously filed on March 9, 2006."

On 01 May 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006.

DISCUSSION

The Notification Of The International Application Number And Of The International Filing Date issued by the RO/US (dated 01 May 2006) expressly accorded the present application an international filing date of 09 March 2006. PCT Rule 20.2(a) states in part:

> (a) In the cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request . . . so that it indicates the day on which the papers completing the international application were received....

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. However, the copy of the "postcard" submitted with the petition bearing a date stamp of "09 MAR 2006 for this application does not clearly itemize the number of pages of the description, claims, abstract, and drawing that are being submitted. A hand written entry regarding the non-receipt of the description, claims, abstract, and drawing had been placed on the postcard receipt by Patent and Trademark Office (PTO) personnel as noted. The Office procedure for any papers not present in a package that were specifically identified on a postcard receipt is for the post card to be annotated to indicate that the papers were not received. Hence, the postcard receipt is not prima facie evidence of what was filed on 09 March 2006.

The submission of sheets pertaining to the same international application received later than the international filing date is specifically provided for by PCT Rule 20.2(a). The Treaty requires that any sheets submitted within 30 days from the international filing date be accepted and the international filing date be reset to the date on which the later submitted sheets were submitted. In this case, the description, claims, abstract, and drawing were received within 30 days of the international filing date. **Therefore, the international filing date has been changed to 31 March 2006.**

CONCLUSION

For the reasons discussed above, the petition to accept the description, claims, abstract, and drawing submitted on 31 March 2006 as having been filed on 09 March 2006 is **DISMISSED** without prejudice.

Applicant's international filing date is 31 March 2006.

The Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stated that applicant's application had been accorded an international filing date of 09 March 2006 is hereby **VACATED**.

Any reconsideration on the merits of this petition must be promptly filed and should include a cover letter entitled "Petition Under 37 CFR 1.182" with the appropriate fee

under 37 CFR 1.17(h).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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cc: International Bureau of WIPO

25 MAY 2007

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DANIEL M. CISLO
CISLO & THOMAS LLP
233 WILSHIRE BLVD., SUITE 900
SANTA MONICA CA CALIFORNIA 90401-1211

In re Application of	:	DECISION ON
COLEMAN, Lewis S.	:	
PCT No.: PCT/US06/09291	:	
Int. Filing Date: 16 March 2006	:	
Priority Date: 15 March 2005	:	PETITION UNDER
Attorney's Docket No.: 06-16461	:	
For: THERAPIES AND...	:	
HEMOSTASIS IN AN ORGANISM	:	37 CFR 1.10 (c)

This decision is in response to the "PETITION FOR CORRECTION OF INTERNATIONAL FILING DATE UNDER 37 CFR 1.181," filed on 27 February 2007, which is being treated as a petition under 37 CFR 1.10 (c) requesting that the international filing date of 16 March 2006 be changed to 15 March 2006 for the above identified international application. No fee is required for this petition.

BACKGROUND

This petition is to correct the international filing date of the above international application that was purported to have been filed on 15 March 2006. The United States Receiving Office (RO/US) on 29 January 2007 mailed applicant a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) stating that the international filing date is 16 March 2006.

On 27 February 2007, the present petition was filed to this Office requesting that the application be accorded a filing date of 15 March 2006, which would be pursuant to the "Express Mail" provisions under 37 CFR 1.10(c). The petition includes, *inter alia*, a copy of the sales receipt that indicates a Label No.: EV544067322US and postcard without being stamped by the USPTO.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied items (1) and (2) but not (3) under 37 CFR 1.10(c).

The petition was filed promptly. 37 CFR 1.10(c)(1). A review of the application papers reveals that "Express Mail" Label No. EV544067322US was placed on a the paper submitted to the RO/US prior to the original mailing by "Express Mai" but it is stamped by the USPTO with a date of 16 March 2006. Petitioner has satisfied requirement 2. CFR 1.10(c)(2).

Petitioner has not provided a copy of the customer receipt of "Express Mail" Label No. EV544067322US filed with the present petition; however, the original "Express Mail" Label No. EV544067322US retained in the file identifies the day of deposit as "16 March 2006" in the "date-in" box. Thus requirement 37 CFR 1.10(c)(3) has not been met.

Applicant may wish to consider filing a petition under 37 CFR 1.10(d) with the appropriate evidence to establish the 15 March 2006 deposit date.

Accordingly, the requirements under 37 CFR 1.10(c) have not been satisfied.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
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PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Enclosed: Copy of the "Express Mail" label in the file.

UNITED STATES PATENT and TRADEMARK OFFICE

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0 1 NOV 2007

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In re Application of	:	DECISION ON
COLEMAN, Lewis S.	:	
PCT No.: PCT/US06/09291	:	
Int. Filing Date: 15 March 2006	:	
Priority Date: 15 March 2005	:	PETITION UNDER
Attorney's Docket No.: 06-16461	:	
For: THERAPIES AND...	:	
HEMOSTASIS IN AN ORGANISM	:	37 CFR 1.10 (c)

This decision is in response to the RENEWED "PETITION FOR CORRECTION OF INTERNATIONAL FILING DATE UNDER 37 CFR 1.10(c)," filed on 24 July 2007 requesting that the international filing date of 16 March 2006 be changed to 15 March 2006 for the above identified international application.

BACKGROUND

In a decision from this Office on16 April 2003, the petition faxed on 12 June 2002 was dismissed. The decision indicated that requirement (3) of 37 CFR 1.10(c) was not met because the "Express Mail" Label No. EL842897183US did not clearly identify the day of deposit as "21 May 2002." The decision, also, indicated that applicant submit a copy of the Express Mail Corporate Account history from the USPS for this application to resolve the filing date.

On 29 April 2003, the present petition was filed to this Office which includes, *inter alia*, a copy of the Express Mail Corporate Account Mailing Statement.

DISCUSSION

Applicant has satisfied requirements (3) of 37 CFR 1.10(c), thus satisfying the requirements under 37 CFR 1.10(c).

A copy of the Express Mail Corporate Account Mailing Statement indicates that the "Express Mail" Label No. ET842897183US was received by the USPS on May 21, 2002, which would indicate a date of deposit at the USPTO as 21 May 2002. 37 CFR 1.10(c)(3)

Accordingly, the requirements under 37 CFR 1.10(c) have now been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED** and the date of receipt of the above international application at the USPTO is **15 March 2006**.

Form PCT/RO/105, mailed 29 January 2007, is hereby **VACATED**.

This application is being forwarded to the RO/US section of the Office of PCT Operations for preparation and mailing of a new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the present application an international filing date of **15 March 2006** and for forwarding a copy of this decision to the International Bureau.

Rafael Bacares
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Enclosed: First page of the Request
Form PCT/RO/105

CC: The International Bureau of WIPO
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Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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10 APR 2008

CLIFTON W. THOMPSON
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In re Application of :
AMERICAN TECHNOLOGY CORPORATION :
PCT Application No.: PCT/US2006/009358 : DECISION
Int. Filing Date: 14 March 2006 :
Priority Date Claimed: 14 March 2005 :
Attorney Docket No.: ATC 20 DAD PCT :
For: DIGITAL ACOUSTIC DEVICE :

This is in response to applicant's "Petition Under 37 C.F.R. §1.181 to Vacate Notification That International Application [is] Considered to be Withdrawn" filed 09 January 2008.

BACKGROUND

On 14 March 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 07 April 2006, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102).

On 23 May 2006, the RO/US mailed an Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133).

On 14 July 2006, the RO/US mailed a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117).

DISCUSSION

The petition states that the Invitation to Pay Prescribed Fees was never received. A review of Form PCT/RO/133 reveals that it was mailed to an incorrect address. Therefore, the application should not have been considered withdrawn for failure to timely respond to the invitation.

The petition further states that a check in the amount of $5,743.00 was sent to the USPTO on 26 April 2006. A review of the fee records for the present application reveals that no payment has been received. The copy of the check included with the petition does not appear to indicate the present international application number. Moreover, the petition does not include a copy of a fee transmittal page or cover letter which indicates the present international application number. Thus, fees for the present application remain outstanding.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) mailed 23 May 2006 is hereby VACATED.

The Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) mailed 14 July 2006 is hereby VACATED.

This application is being forwarded to the RO/US for further processing in accordance with this decision. A new Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) will be sent to the address listed on the Request (Form PCT/RO/101).

Bryan Lin

Bryan Lin
PCT Legal Examiner
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

11 SEP 2007

JAMES SONNTAG
PO BOX 9194
SALT LAKE CITY UT UTAH 84109

In re Application of
CUSTOM CARE PRODUCTS, INC.
PCT No.: PCT/US06/09552
Int. Filing Date: 16 March 2006
Priority Date: 14 March 2005
Attorney's Docket No.: CCPO4WO
For: ORAL COMPOSITION FOR IMPROVING MOUTH ENVIRONMENT

: DECISION ON PETITION

: UNDER 37 CFR 1.181

This is in response to applicant's "Petition under 37 CFR 1.181 and Under 37 CFR 1.137 to Revive Unintentionally Withdrawn PCT Application", filed in the United States Patent and Trademark Office (USPTO) on 05 September 2007 alleging that applicant did not receive the Notification Concerning Prescribed Fees (Form PCT /RO/102) mailed on 07 April 2006, the Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT /RO/133) mailed on 23 May 2006 and Notification That International Application Considered to be Withdrawn (Form PCT /RO/117) mailed on 14 July 2006.

BACKGROUND

A review of the application file reveals the following: The Notification Concerning Prescribed Fees mailed on 07 April 2006 indicated that $2,406.00 in total fees were due and payable within ONE month from the date of receipt of the international application. Thereafter, the Invitation to Pay Prescribed Fees Together with Late Payment Fee was mailed on 23 May 2006 indicating that the total unpaid fees and late payment fee was due, amounting to $2,943.00. No response to these Notifications were received. Consequently, on 14 July 2006, the international application PCT/US06/09552 was considered withdrawn and the Notification That International Application Considered to be Withdrawn was mailed on 14 July 2006.

On 05 September 2007, applicant filed the instant petition to vacate the withdrawal of the International application.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the

file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Item (1) is satisfied with Practitioner's statement that the Notifications "were not received." Item (2) is satisfied by the practitioner's statement attesting that "a search of the file jacket and docket records indicated that the papers were not received".

With regard to Item (3), applicant has provided the appropriate docket record for establishing nonreceipt of an Office communication, the record where all USPTO responses due on the due date for reply to the communication at issue (i.e., a listing of all replies due in the USPTO between 14 April 2006 through 23 June 2006 for the present case) would be entered had it been received. Thus, applicant has provided the proper showing necessary to vacate the withdrawal of the international application and the petition may be properly granted at this time.

Applicant's petition under 37 CFR 1.181 to vacate the withdrawal of the international application is GRANTED. The Notification That International Application Considered to be Withdrawn mailed on 14 July 2006 is hereby VACATED.

Applicant provided a credit card payment for payment of the required international fees.

In light of the granting of applicant's petition under 37 CFR 1.181, applicant's petition to revive under 37 CFR 1.137 is dismissed as moot. No petition fees will be charged to applicant.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to vacate the withdrawal of the international application is **GRANTED**. The Notification That International Application Considered to be Withdrawn mailed on 14 July 2006 is **VACATED**. The fees set forth in the Invitation to Pay Prescribed Fees Together with Late Payment Fee will be charged to applicant's credit card per his authorization.

The application will be forwarded to the United States Receiving Office for further processing.

Cynthia M. Kratz
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UNITED STATES PATENT AND TRADEMARK OFFICE

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11 SEP 2007

JAMES SONNTAG
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In re Application of
CUSTOM CARE PRODUCTS, INC.
PCT No.: PCT/US06/09552
Int. Filing Date: 16 March 2006
Priority Date: 14 March 2005
Attorney's Docket No.: CCPO4WO
For: ORAL COMPOSITION FOR IMPROVING MOUTH ENVIRONMENT

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is in response to applicant's "Petition under 37 CFR 1.181 and Under 37 CFR 1.137 to Revive Unintentionally Withdrawn PCT Application", filed in the United States Patent and Trademark Office (USPTO) on 05 September 2007 alleging that applicant did not receive the Notification Concerning Prescribed Fees (Form PCT /RO/102) mailed on 07 April 2006, the Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT /RO/133) mailed on 23 May 2006 and Notification That International Application Considered to be Withdrawn (Form PCT /RO/117) mailed on 14 July 2006.

BACKGROUND

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On 05 September 2007, applicant filed the instant petition to vacate the withdrawal of the International application.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the

file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Item (1) is satisfied with Practitioner's statement that the Notifications "were not received." Item (2) is satisfied by the practitioner's statement attesting that "a search of the file jacket and docket records indicated that the papers were not received".

With regard to Item (3), applicant has provided the appropriate docket record for establishing nonreceipt of an Office communication, the record where all USPTO responses due on the due date for reply to the communication at issue (i.e., a listing of all replies due in the USPTO between 14 April 2006 through 23 June 2006 for the present case) would be entered had it been received. Thus, applicant has provided the proper showing necessary to vacate the withdrawal of the international application and the petition may be properly granted at this time.

Applicant's petition under 37 CFR 1.181 to vacate the withdrawal of the international application is GRANTED. The Notification That International Application Considered to be Withdrawn mailed on 14 July 2006 is hereby VACATED.

Applicant provided a credit card payment for payment of the required international fees.

In light of the granting of applicant's petition under 37 CFR 1.181, applicant's petition to revive under 37 CFR 1.137 is dismissed as moot. No petition fees will be charged to applicant.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to vacate the withdrawal of the international application is **GRANTED**. The Notification That International Application Considered to be Withdrawn mailed on 14 July 2006 is **VACATED**. The fees set forth in the Invitation to Pay Prescribed Fees Together with Late Payment Fee will be charged to applicant's credit card per his authorization.

The application will be forwarded to the United States Receiving Office for further processing.

Cynthia M. Kratz
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11 SEP 2007

JAMES SONNTAG
PO BOX 9194
SALT LAKE CITY UT UTAH 84109

In re Application of
CUSTOM CARE PRODUCTS, INC.
PCT No.: PCT/US06/09552
Int. Filing Date: 16 March 2006
Priority Date: 14 March 2005
Attorney's Docket No.: CCPO4WO
For: ORAL COMPOSITION FOR IMPROVING MOUTH ENVIRONMENT

DECISION ON PETITION

UNDER 37 CFR 1.181

This is in response to applicant's "Petition under 37 CFR 1.181 and Under 37 CFR 1.137 to Revive Unintentionally Withdrawn PCT Application", filed in the United States Patent and Trademark Office (USPTO) on 05 September 2007 alleging that applicant did not receive the Notification Concerning Prescribed Fees (Form PCT /RO/102) mailed on 07 April 2006, the Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT /RO/133) mailed on 23 May 2006 and Notification That International Application Considered to be Withdrawn (Form PCT /RO/117) mailed on 14 July 2006.

BACKGROUND

A review of the application file reveals the following: The Notification Concerning Prescribed Fees mailed on 07 April 2006 indicated that $2,406.00 in total fees were due and payable within ONE month from the date of receipt of the international application. Thereafter, the Invitation to Pay Prescribed Fees Together with Late Payment Fee was mailed on 23 May 2006 indicating that the total unpaid fees and late payment fee was due, amounting to $2,943.00. No response to these Notifications were received. Consequently, on 14 July 2006, the international application PCT/US06/09552 was considered withdrawn and the Notification That International Application Considered to be Withdrawn was mailed on 14 July 2006.

On 05 September 2007, applicant filed the instant petition to vacate the withdrawal of the International application.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the

file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Item (1) is satisfied with Practitioner's statement that the Notifications "were not received." Item (2) is satisfied by the practitioner's statement attesting that "a search of the file jacket and docket records indicated that the papers were not received".

With regard to Item (3), applicant has provided the appropriate docket record for establishing nonreceipt of an Office communication, the record where all USPTO responses due on the due date for reply to the communication at issue (i.e., a listing of all replies due in the USPTO between 14 April 2006 through 23 June 2006 for the present case) would be entered had it been received. Thus, applicant has provided the proper showing necessary to vacate the withdrawal of the international application and the petition may be properly granted at this time.

Applicant's petition under 37 CFR 1.181 to vacate the withdrawal of the international application is GRANTED. The Notification That International Application Considered to be Withdrawn mailed on 14 July 2006 is hereby VACATED.

Applicant provided a credit card payment for payment of the required international fees.

In light of the granting of applicant's petition under 37 CFR 1.181, applicant's petition to revive under 37 CFR 1.137 is dismissed as moot. No petition fees will be charged to applicant.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to vacate the withdrawal of the international application is **GRANTED**. The Notification That International Application Considered to be Withdrawn mailed on 14 July 2006 is **VACATED**. The fees set forth in the Invitation to Pay Prescribed Fees Together with Late Payment Fee will be charged to applicant's credit card per his authorization.

The application will be forwarded to the United States Receiving Office for further processing.

Cynthia M. Kratz
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UNITED STATES PATENT AND TRADEMARK OFFICE

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20 DEC 2006

STEVEN H. ROTH
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POST OFFICE BOX 6006
SAN RAMON CA 94583-0806

In re Application of	:	
CHEVRON U.S.A., INC.	:	
PCT No.: PCT/US2006/010812	:	DECISION
Int. Filing Date: 24 March 2006	:	
Priority Date: 04 May 2005	:	
Attorney's Docket No.: 11/122,463	:	
For: LUBRICATING COMPOSITION HAVING IMPROVED STORAGE STABILITY	:	

This decision is in response to applicant's "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION" filed on 06 October 2006.

BACKGROUND

On 24 March 2006, applicant filed in the United States Receiving Office (RO/US) a request, description, claims, and abstract.

On 17 April 2006, the RO/US mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) inviting applicant to pay the balance due. The Form indicated that the wrong deposit account number had been provided.

On 16 May 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 24 March 2006.

On 20 June 2006, the RO/US mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) inviting applicant to pay the balance due within one month of the date of mailing of the INVITATION. The INVITATION also indicated that failure to pay the total amount due with the time limit indicated may result in the international application being considered withdrawn by the RO/US.

On 02 August 2006, the RO/US mailed a NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN (Form PCT/RO/117) indicating that the international application is declared by the RO/US to be considered withdrawn for failure to pay the prescribed fees.

On 06 October 2006, applicant filed the instant "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION".

DISCUSSION

It appears that applicant is requesting that the international application be revived as to all designated States. However, a revival under 37 CFR 1.137(b) for an international application, if granted, would only apply to the United States Designated/Elected Office. *See, e.g.,* PCT Article 48(2) and PCT Rule 82bis.2. *See also* PCT Rule 49.6. (If applicant is requesting that the application be revived only as to the DO/EO/US, applicant should so state in the next communication by applicant in the instant application. However, the invitation to file such a petition should not be construed as an indication that such a petition will be granted.)

Applicant purports that "they never received the Invitation to Pay the Prescribed Fees (From (PCT/RO/133)". If applicants can establish nonreceipt of this paper, then the application should not have been withdrawn. In such case, the Notification that International Application Considered Withdrawn will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. Such a petition must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Again, however, the invitation to file such a petition should not be construed as an indication that such a petition will be granted.

It is noted that the address to which the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE is the address of record which is not the address of petitioner. Thus, the showing concerning non-receipt of the INVITATION would at least have to establish non-receipt at the address of record. The records of petitioner may also be relevant.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application is considered withdrawn for failure to pay the prescribed fees.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer

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POST OFFICE BOX 6006
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In re Application of :
CHEVRON U.S.A., INC. :
PCT No.: PCT/US2006/010812 : DECISION
Int. Filing Date: 24 March 2006 :
Priority Date: 04 May 2005 :
Attorney's Docket No.: 11/122,463 :
For: LUBRICATING COMPOSITION HAVING :
IMPROVED STORAGE STABILITY :

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.181" filed on 29 January 2007.

BACKGROUND

On 24 March 2006, applicant filed in the United States Receiving Office (RO/US) a request, description, claims, and abstract.

On 17 April 2006, the RO/US mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) inviting applicant to pay the balance due. The Form indicated that the wrong deposit account number had been provided.

On 16 May 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 24 March 2006.

On 20 June 2006, the RO/US mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) inviting applicant to pay the balance due within one month of the date of mailing of the INVITATION. The INVITATION also indicated that failure to pay the total amount due with the time limit indicated may result in the international application being considered withdrawn by the RO/US.

On 02 August 2006, the RO/US mailed a NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN (Form PCT/RO/117) indicating that the international application is declared by the RO/US to be considered withdrawn for failure to pay the prescribed fees.

On 06 October 2006, applicant filed a "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION".

On 20 December 2006, a decision was mailed dismissing without prejudice applicant's petition to revive. The decision also noted that the petition purported that applicants "never received the Invitation to Pay the Prescribed Fees (From (PCT/RO/133)" and that if applicants can establish nonreceipt of this paper, then the application should not have been withdrawn.

On 29 January 2007, applicant filed the instant "PETITION UNDER 37 CFR 1.181" which attempts to establish nonreceipt of the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE.

DISCUSSION

Petition Under 37 CFR 1.181

If applicants can establish nonreceipt of the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE, then the application should not have been withdrawn. In such case, the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that "[f]or example, if a three month period for reply was set in the nonreceived Office action, a copy of the 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." Such a docket report has been provided. Thus, item (3) has also been met. Accordingly, the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE mailed 20 June 2006 and the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN mailed 02 August 2006 are hereby VACATED.

Decision Mailed 20 December 2006

The decision mailed 20 December 2006 indicated the petition under 37 CFR 1.137(b) was dismissed without prejudice. However, that dismissal was premature. The decision should have stated that the decision on the petition under 37 CFR 1.137(b) would be held in abeyance until the petition under 37 CFR 1.181 was resolved. Accordingly, that part of the decision dismissing applicant's petition under 37 CFR 1.137(b) is vacated and replaced with the holding that such decision will be held in abeyance until the petition under 37 CFR 1.181 is resolved.

Since the petition under 37 CFR 1.181 is now resolved, the petition under 37 CFR 1.137(b) is DISMISSED as MOOT.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** as **MOOT**.

For the reasons set forth above, the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE mailed 20 June 2006 is VACATED.

For the reasons set forth above, the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN mailed 02 August 2006 is VACATED.

The application is being forwarded to the United States Receiving Office for continued processing of the international application.

Daniel Stemmer
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CC: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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20 DEC 2006

STEVEN H. ROTH
CHEVRON CORPORATION, LAW DEPARTMENT
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SAN RAMON CA 94583-0806

In re Application of
CHEVRON U.S.A., INC.
PCT No.: PCT/US2006/010812
Int. Filing Date: 24 March 2006
Priority Date: 04 May 2005
Attorney's Docket No.: 11/122,463
For: LUBRICATING COMPOSITION HAVING IMPROVED STORAGE STABILITY

: DECISION

This decision is in response to applicant's "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION" filed on 06 October 2006.

BACKGROUND

On 24 March 2006, applicant filed in the United States Receiving Office (RO/US) a request, description, claims, and abstract.

On 17 April 2006, the RO/US mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) inviting applicant to pay the balance due. The Form indicated that the wrong deposit account number had been provided.

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On 06 October 2006, applicant filed the instant "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION".

DISCUSSION

It appears that applicant is requesting that the international application be revived as to all designated States. However, a revival under 37 CFR 1.137(b) for an international application, if granted, would only apply to the United States Designated/Elected Office. *See, e.g.,* PCT Article 48(2) and PCT Rule 82bis.2. *See also* PCT Rule 49.6. (If applicant is requesting that the application be revived only as to the DO/EO/US, applicant should so state in the next communication by applicant in the instant application. However, the invitation to file such a petition should not be construed as an indication that such a petition will be granted.)

Applicant purports that "they never received the Invitation to Pay the Prescribed Fees (From (PCT/RO/133)". If applicants can establish nonreceipt of this paper, then the application should not have been withdrawn. In such case, the Notification that International Application Considered Withdrawn will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. Such a petition must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Again, however, the invitation to file such a petition should not be construed as an indication that such a petition will be granted.

It is noted that the address to which the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE is the address of record which is not the address of petitioner. Thus, the showing concerning non-receipt of the INVITATION would at least have to establish non-receipt at the address of record. The records of petitioner may also be relevant.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application is considered withdrawn for failure to pay the prescribed fees.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer

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UNITED STATES PATENT AND TRADEMARK OFFICE

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10 SEP 2007

Dara L. Dinner
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709 Swedeland Road, P.O. Box 1539
King of Prussia, PA 19406-0939

In re Application of :
GLAXO GROUP LTD. :
PCT No.: PCT/US2006/010855 :
Int. Filing Date: 24 March 2006 : **DECISION**
Priority Date: 25 March 2005 :
Attorney Docket No.: PU61314 :
For: NOVEL COMPOUNDS :

This decision is in response to applicant's "Petition to Correct and Request Republication" filed with the United States Receiving Office (RO/US) on 27 June 2007. No fee is required.

BACKGROUND

On 24 March 2006, applicant filed PCT/US2006/010855 with the RO/US. A sequence listing was not included with the original filing.

On 08 June 2006, an Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing Complying With Standard (Form PCT/ISA/225) was mailed. A Notification Regarding Certain Corrections Made *Ex Officio* (Form PCT/RO/146) was also sent to applicant noting that the RO/US changed Box No. IX of the Request to indicate a 63 page sequence listing was received.

On 07 July 2006, a response to the Form PCT/ISA/225 was submitted which included, *inter alia*, a one page sequence listing.

On 05 October 2006, the International Bureau (IB) published the international application with a 63 page sequence listing.

On 27 June 2007, applicant filed the subject petition requesting that the RO/US correct the international application.

DISCUSSION

Applicant requests that the RO/US review the above-captioned application and submit the correct sequence listing to the IB for republishing.

PCT/US2006/010855

A review of the subject international application verifies that a one page sequence listing was submitted on 07 July 2006 in response to the Form PCT/ISA/225 mailed 08 June 2006. This sequence listing and CRF will used by the United States International Searching Authority for the purpose of conducting the international search. The one page sequence listing and CRF are not considered part of the application.

Moreover, the RO/US forwarded a 63 page sequence listing to the IB by mistake. The 63 page sequence listing was for another international application filed on the same day. The IB published the above-identified international application with the 63 page sequence listing.

CONCLUSION

For the reasons discussed above, applicant's petition is **GRANTED**.

This application is being returned to the RO/US for further processing. The sequence listing forwarded to the IB is not part of the international application.

A copy of this decision will be forwarded to the IB.

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34, chemin des Colombettes
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Switzerland

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In re Application of :
CELL SIGNALING TECHNOLOGY :
PCT No.: PCT/US2006/010868 :
Int. Filing Date: 24 March 2006 : **DECISION**
Priority Date: 12 April 2005 :
Attorney's Docket No.: :
For: REAGENTS FOR THE DETECTION OF PROTEIN PHOSPHORYLATION IN CARCINOMA SIGNALING PATHWAYS :

This decision is in response to the documents filed 10 September 2007 with the United States Receiving Office (RO/US). These documents are treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 24 March 2006, applicant filed PCT/US2006/010868 claiming priority to a United States provisional application filed on 19 October 2001. There was no sequence listing located in the file. As such, a sequence listing was not forwarded to the International Bureau (IB).

On 16 May 2006, the RO/US mailed several forms to applicant including an Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing Complying With Standard And/Or Technical Requirements (Form PCT/ISA/225).

On 26 October 2006, the IB published the subject application without a sequence listing.

On 10 September 2007, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the date-stamped postcard receipt for documents filed 24 March 2006; a copy of the sequence listing as filed on 24 March 2006; and a copy of the Express Mail Label for the 24 March 2006 documents.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being

filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In the instant petition, applicant has provided a copy of the date-stamped postcard receipt for documents submitted on 24 March 2006. The receipt clearly identified the application by the name of applicant and title. The postcard receipt indicates that among the papers received included a "Sequence Listing (62 pgs.)." The postcard receipt is stamped as received by the USPTO. However, the date is illegible on the stamp. Nonetheless, applicant provided a copy of the Express Mail Label for ED282174227US which has a "Date Accepted" of "3/24/06." This Express Mail number is listed on the transmittal letter for the original submission and includes a "Date of Deposit" of "March 24, 2006." Moreover, USPTO records indicate that the other papers indicated on the postcard receipt were received on 24 March 2006.

Accordingly, applicant has provided *prima facie* evidence that a 62 page sequence listing was submitted to the RO/US on 24 March 2006 with the original papers. In addition, a review of USPTO records show that the sequence listing in question was received in the RO/US and placed in another international application (PCT/US2006/10855) filed on the same day by mistake. These papers have been removed and placed in the above-captioned application.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

As a sequence listing was submitted on 24 March 2006, the Form PCT/ISA/225 mailed 16 May 2006 is hereby **VACATED**.

This international application is being forwarded to the RO/US for further processing in accordance with this decision, that is, for treating the application as having filed 62 page sequence listing with the international application on 24 March 2006 and forwarding a copy of this sequence listing to the IB.

A copy of this decision will also be forwarded to the IB.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

PCT/US2006/010868

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

PCT/US06/11277 .11092006

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

Eustace Prince Isidore
5720 Brittlyn's Court
Austin, TX 78730

In re Application of
EUSTACE PRINCE ISIDORE
PCT No.: PCT/US06/11277
Int. Filing Date: 28 March 2006
Priority Date: 25 March 2005
Atty. Docket No.: EPINVENTCORP.001PCT
For: WIRELESS COMMUNICATION DEVICE WITH MULTIPLE, CONCURRENT SUBSCRIBER NUMBER CAPABILITY

DECISION ON PETITION

UNDER 37 CFR 1.10

This decision is in response to applicant's "Petition For Corrected Filing Date" filed 07 August 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

Applicant filed a PCT Request with the United States Receiving Office (RO/US). The Request claimed priority to an application filed in the United States on 25 March 2005.

On 18 May 2006, applicant was mailed a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating that the international filing date was 28 March 2006.

On 07 August 2006, applicant filed the present petition seeking an international filing date of 27 March 2006.

DISCUSSION

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant has satisfied items 1.

As to item 2, applicant does not appear to have included a transmittal letter for the present international application. In addition, it is unclear whether the number of the "Express Mail" mailing was placed on any of the filed papers.

Regarding item 3, while applicant has included statements detailing the preparation and mailing of the express mail mailing in question, these statements have not been corroborated by evidence from the USPS or that came into being within one business day of the deposit. The track and confirm database of the USPS shows an acceptance date of 28 March 2006 and applicant has not provided an impartial business records such as a mailing log entry created after (but within 24 hours of) the express mail parcel was deposited with the USPS.

As such, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
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Tel: 571-272-3294
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Eugene Flanagan III
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799

In re Application of :
ARBITRON Inc. :
PCT No.: PCT/US06/11282 :
Int. Filing: 28 March 2006 :
Priority Date: 29 March 2005 : DECISION ON PETITION
Attorney Docket No.: 25896-522/P0132AWO :
For: METHODS AND SYSTEMS FOR GATHERING MARKET RESEARCH DATA INSIDE AND OUTSIDE COMMERCIAL ESTABLISHMENTS :

This decision in response to applicant's "Request for Republication and Correction of Patent Application Publication and Petition for Extension of Deadline by One (1) Day" filed 06 December 2006. The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 March 2006, applicant filed international application PCT/US06/11282, which claimed priority of an earlier US application filed 29 March 2005. The international application consisted of five sheets of Request, seventy-four pages of description, seventeen sheets of claims, one sheet of abstract, nineteen sheets of drawings, fee calculation sheet, transmittal letter, power of attorney, and a diskette. It appears that page 92 (which included claims 65-68) and Figure 21(page 19 of the drawings) were not included.

On 21 June 2006, the United States Receiving Office (RO/US) mailed to applicant a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) indicating that the application did not contain Page 16, Figure 19. Additionally, the United Receiving Office (RO/US) mailed "Communication in Case for Which No Other Form is Applicable" (Form PCT/RO/132) indicating that Page 92 of the claims was missing.

On 18 July 2006, applicant filed "Response to Notification of Non-Inclusion of Drawings with International Patent Application" and "Response to Communication in Cases For Which no Other Form is Applicable" which included Page 92 (claims 65-68) and Figure 18 (page 16/20 of the drawings) and Figure 19 (page 19/20 of the drawings).

On 27 July 2006, the United States Receiving Office (RO/US) mailed to applicant a

corrected "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) indicating that the application did not contain Figure 21 (Page 19/20 of the drawings).

On 28 August 2006, applicant filed "Response to Notification of Non-Inclusion of Drawings with International Patent Application" which included Figure 21 (Page 19/20 of the drawings).

On 05 October 2006, the World Intellectual Property Organization (WIPO) published the above-identified international application. Figure 21(page 19/20 of the drawings) was not included in the publication as part of the international application, however, Page 92 (claims 65-68) was part of the published international application.

On 06 December 2006, applicant filed "Request for Republication and Correction of Patent Application Publication and Petition for Extension of Deadline by One (1) Day."

DISCUSSION

Applicant states in their present petition that Figure 21of the drawings was received at the United States Patent and Trademark Office on 28 March 2006. Further, applicant states that "this figure was orginally filed with the application and receipt was acknowledged via the USPTO date stamped on the return postcard." Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "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."

As stated above, the best evidence of what was actually received by the Office on a particular date is a copy of the returned dated stamped postcard receipt that was filed with papers in questions and contains a specific itemization of all items being submitted. In the present instance, applicant has not provided any evidence, such as a date stamped return receipt post card, that evidences receipt by the Office of the original Figure 21 (page 19/20 of the drawings) filed on 28 March 2006. Additionally, a review of the application file reveals that the original Figure 21 (page 19/20 of the drawings) allegedly filed on 28 March 2006 is not located therein. At this time, it is not appropriate for the Office to include a copy of Figure 21 (page 19/20 of the drawings) to the international application.

CONCLUSION

For the reasons discussed above, the petition to accept the drawings submitted on 06 December 2006 as having been filed on 28 March 2006 is **DISMISSED** without prejudice.

Figure 21 is considered to be nonexistent at this time.

Any reconsideration on the merits of this petition must be promptly filed and should include a cover letter entitled "Petition Under 37 CFR 1.182" with the appropriate fee under 37 CFR 1.17(h).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

13 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1133 Avenue of the Americas
New York, New York 10036-6799

In re Application of :
ARBITRON Inc. :
PCT No.: PCT/US06/11282 :
Int. Filing: 28 March 2006 :
Priority Date: 29 March 2005 : DECISION ON PETITION
Attorney Docket No.: 25896-522/P0132AWO :
For: METHODS AND SYSTEMS FOR GATHERING MARKET RESEARCH DATA INSIDE AND OUTSIDE COMMERCIAL ESTABLISHMENTS :

This decision in response to applicant's "Request for Republication and Correction of Patent Application Publication and Petition for Extension of Deadline by One (1) Day" filed 06 December 2006. The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 March 2006, applicant filed international application PCT/US06/11282, which claimed priority of an earlier US application filed 29 March 2005. The international application consisted of five sheets of Request, seventy-four pages of description, seventeen sheets of claims, one sheet of abstract, nineteen sheets of drawings, fee calculation sheet, transmittal letter, power of attorney, and a diskette. It appears that page 92 (which included claims 65-68) and Figure 21(page 19 of the drawings) were not included.

On 21 June 2006, the United States Receiving Office (RO/US) mailed to applicant a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) indicating that the application did not contain Page 16, Figure 19. Additionally, the United Receiving Office (RO/US) mailed "Communication in Case for Which No Other Form is Applicable" (Form PCT/RO/132) indicating that Page 92 of the claims was missing.

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On 06 December 2006, applicant filed "Request for Republication and Correction of Patent Application Publication and Petition for Extension of Deadline by One (1) Day."

DISCUSSION

Applicant states in their present petition that Figure 21of the drawings was received at the United States Patent and Trademark Office on 28 March 2006. Further, applicant states that "this figure was orginally filed with the application and receipt was acknowledged via the USPTO date stamped on the return postcard." Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "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."

As stated above, the best evidence of what was actually received by the Office on a particular date is a copy of the returned dated stamped postcard receipt that was filed with papers in questions and contains a specific itemization of all items being submitted. In the present instance, applicant has not provided any evidence, such as a date stamped return receipt post card, that evidences receipt by the Office of the original Figure 21 (page 19/20 of the drawings) filed on 28 March 2006. Additionally, a review of the application file reveals that the original Figure 21 (page 19/20 of the drawings) allegedly filed on 28 March 2006 is not located therein. At this time, it is not appropriate for the Office to include a copy of Figure 21 (page 19/20 of the drawings) to the international application.

CONCLUSION

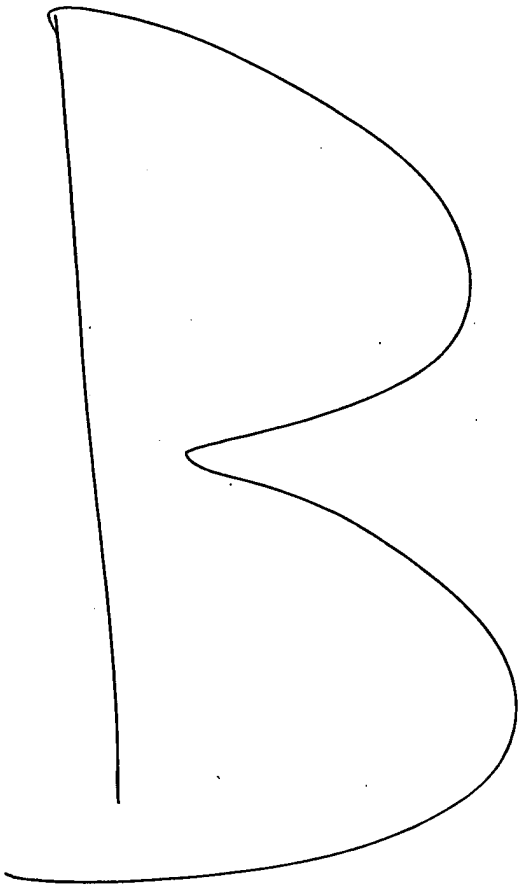
For the reasons discussed above, the petition to accept the drawings submitted on 06 December 2006 as having been filed on 28 March 2006 is **DISMISSED** without prejudice.

Figure 21 is considered to be nonexistent at this time.

Any reconsideration on the merits of this petition must be promptly filed and should include a cover letter entitled "Petition Under 37 CFR 1.182" with the appropriate fee under 37 CFR 1.17(h).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459



Express No. EV 325 633 072 US Mailing Date: March 28, 2006

Attorney Ref. No. 25896-522/P0132AWO

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

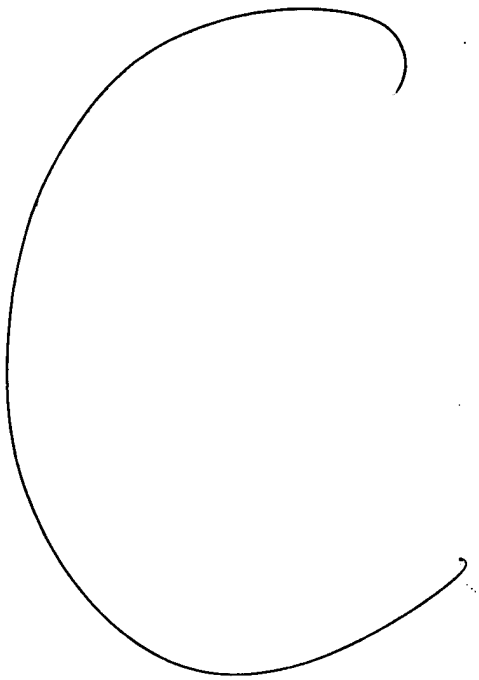
IAP3 Rec'd PCT/PTO 28 MAR 2006

Applicant: Arbitron, Inc.
Serial No: To be assigned
Filed: March 28, 2006 -- Herewith
For: Methods and Systems for Gathering Market Research Data Inside and Outside Commercial Establishments

PCT/US 06/11282

CARD STAMP DATE

Please have the Mail Division stamp and return this card as acknowledgment of receipt of the following: **PCT Transmittal sheet (1 pg); PCT Request (5 pgs) PCT Fee Calculation sheet (1 pg); PTO filing fee ($3,458.00); Specification, claims, abstract (93 pages); Drawings (Figs 1-22; 20 pages); Notice of Withdrawal of Designation of U.S.; Copy of General Power of Attorney; Express Mail Certificate and return postcard.**



RECYCLED

25896.522/P0132AWO
PCT/US06/11282

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PCT RECEIVING OFFICE

In re Application of: Arbitron Inc.

Serial No.: PCT/US06/11282 Authorized Officer: Hofsass Jeffery

Filed: March 28, 2006

Publication No: WO 2006/105088 Publication date: October 5, 2006

For: **Methods And Systems For Gathering Market Research Data Inside And Outside Commercial Establishments**

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

REQUEST FOR REPUBLICATION AND CORRECTION OF PATENT APPLICATION PUBLICATION
AND
PETITION FOR EXTENSION OF DEADLINE BY ONE (1) DAY

S I R:

Applicants hereby request the republication of international publication number WO 2006/105088, published October 5, 2006, due to an error by the U.S. Patent and Trademark Office ("the Office"), which omitted Figure 21 (page 19 of the drawings) from the publication. Attached to this request is a copy of page 19, Figure 21. This figure was originally filed with the application and receipt was acknowledged via the USPTO date stamp on the return postcard. Further, this figure was supplied again in applicants' response dated July 28, 2006, in reply to the "Notification of non-inclusion of drawings with the International Application," dated July 27, 2006.

Since the application was published on October 5, 2006, the deadline to submit this

request is December 5, 2006. Accordingly, applicants hereby petition for a one-day extension of time to request republication. In light of the various communications between the Office and the undersigned attorney of record in regard to pages missing in the Office's records, it is believed that providing a one-day extension is fair and reasonable/

If any fee is due in connection with this request/petition, the Commissioner is authorized to charge Deposit Account No. 03-3415.

If there are any questions, or further information is required, the Commissioner is requested to contact applicants' counsel at 212-790-9252.

Respectfully submitted,

Mark Montague
Registration No. 36,612

Cowan Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799
Tel: 212-790-9200

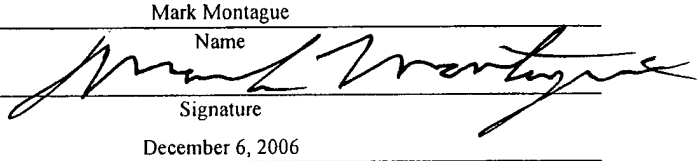
EXPRESS MAIL NO. EV 325633188 US
Attorney Ref. No. 25896-522/P0132AWO

Applicant: Arbitron, Inc.
Serial No: PCT/US06/11282
Filed: March 28, 2006
For: Methods and Systems for Gathering Market Research Data Inside and Outside Commercial Establishments

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an Express Mail envelope addressed to: Commission for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

December 6, 2006
Date of Deposit

Mark Montague
Name



Signature

December 6, 2006
Date of Signature

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No.03-3415.

30 JUN 2006

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WYATT PRATT
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PRINCETON, NEW JERSEY 08540

In re Application of ALLIED TUBE AND CONDUIT CORP. PCT No.: PCT/US06/11393 Int. Filing: 29 March 2006 Priority Date: 28 March 2005 Attorney Docket No.: S-EMOOO16PCT For: ANTIPERSONNEL BARRIER SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "Petition to Correct Filing Date", which is treated as a petition under 37 CFR 1.10(d), filed in the United States Patent and Trademark Office (USPTO) on 05 May 2006, to accord a filing date of 27 March 2006 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/11393 with the United States Receiving Office, claiming a priority date of 28 March 2005 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 29 March 2006.

On 05 May 2006, applicants filed the present request, including a copy of the Customer Receipt of the "Express Mail" mailing label

DISCUSSION

37 CFR 1.10(b) states that "correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon."

No transmittal letter was included with the application papers. The "Express Mail" mailing label number is located on the Certificate of Mailing, which accompanied the application papers. Applicant's copy of the "Express Mail" mailing label did not indicate any "Date-In". However, the original Express Mail envelope is located in the application file. Express Mail label #ED913927265US bears an illegible "Date-In". The USPS barrel-stamp is located on the envelope and indicates a deposit date of "MAR 29 2006". The USPTO date-stamped the envelope "March 29 2006". Further, a review of the USPS Track and Confirm statement indicates that Express Mail label #ED913927265US was accepted on 29 March 2006, the filing date the USPTO accorded to the application. Applicant did not provide a copy of the Customer Copy of the Express Mail label, bearing the date-in or USPS barrel date-stamp bearing the requested filing date 27 March 2006.

Counsel states that the firm's paralegal affixed "the proper postage [from a company postage meter] to an Express Mail envelope on March 27, 2006", inserted the above referenced application papers into the envelope and personally delivered to the Express Mail envelope "to the Mail Clerk in Applicant's mail room prior to 3:30PM on March 27, 2006." It is "Applicant's belief, on common and customary practices of the mail room, that the Express Mail package was properly hand-delivered to the USPS at 3:30PM on March 27, 2006."

Where applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable. 37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The statement by the involved USPS employee was not provided. Applicant did not submit a log of "Express Mail" deposits, in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to support a petition filed under 37 CFR 1.10.[1]

The evidence of record at this time is insufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 March 2006. The international filing date remains 29 March 2006.

CONCLUSION

Applicant's request that international filing date of 27 March 2006 be accorded application PCT/US06/11393 is **DISMISSED without prejudice**. The international filing date remains 29

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[1] Evidence that came in to being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number; attorney docket number; or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry into the log.

Any reconsideration on the merits of the petition under 37 CFR §1.10(c) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10(c)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

05 FEB 2007

WYATT PRATT
9 ROSZEL ROAD
PRINCETON, NEW JERSEY 08540

In re Application of ALLIED TUBE AND CONDUIT CORP.
PCT No.: PCT/US06/11393
Int. Filing: 29 March 2006
Priority Date: 28 March 2005
Attorney Docket No.: S-EMOOO16PCT
For: ANTIPERSONNEL BARRIER SYSTEM

: DECISION ON
: RENEWED PETITION
: UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "Renewed Petition to Correct Filing Date Under 37 CFR 1.10(d)", filed in the United States Patent and Trademark Office (USPTO) on 22 December 2006, to accord a filing date of 27 March 2006 to the above referenced application.

BACKGROUND

Applicant filed international application No. PCT/US06/11393 with the United States Receiving Office, claiming a priority date of 28 March 2005 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 29 March 2006.

On 05 May 2006, applicants filed a request, including a copy of the Customer Receipt of the "Express Mail" mailing label and a statement of facts of Robert Hermel.

On 30 June 2006, a decision on the petition was mailed indicating that Petitioner had not satisfied the requirements of 37 CFR 1.10(d).

On 22 December 2006, applicant filed a renewed petition under 37 CFR 1.10(d) accompanied by the declaration of Loretta Bondeson.

DISCUSSION

The requirements of 37 CFR 1.10(d) were set forth in the decision mailed on 30 June 2006. That decision indicated that applicant had failed to meet the requirements of 37 CFR 1.10(d)(3), that is, applicant must offer a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Applicant was further advised that 37 CFR 1.10(d)(3) also states: "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS."

Applicant did not provide a copy of the Customer Copy of the Express Mail label, bearing

the date-in or USPS barrel date-stamp bearing the requested filing date 27 March 2006.[1] As previously stated, USPS Track and Confirm statement indicates that Express Mail label #ED913927265US was accepted on 29 March 2006, the filing date the USPTO accorded to the application.

Applicant argues that the USPS Track and Confirm detain indicating acceptance of the Express Mailing on March 29, 2006 at 2:52pm is in conflict with the TYCO mail room standard operating procedure. Applicant argues that it is impossible for the Express Mailing at issue to be processed at 2:52pm when the mail practice at TYCO does not deliver mail to the USPS Post Office at Princeton prior to 3:30pm.

The declaration of Loretta Bondeson regarding mail practice is submitted in support of the renewed petition. Ms. Bonderson is an employee of OCE North America and manages the Mail Room Department of Tyco International, Princeton, NJ. Ms. Bonderson states that "Mail is not delivered to the Princeton Post Office prior to 3:30pm." (¶ 4) Ms. Bonderson further states that "On March 29, 2006, no Accountable Mail was delivered from the Tyco Mail Room to the U.S. Postal Office at Princeton prior to 3:30pm". (¶ 5) Ms. Bonderson does not indicate that a mail log of all Express Mail mailings is kept. No physical evidence, such as a Mail Log, accompanied Ms. Bondeson's declaration as proof of the mailing on March 27, 2006, the date applicant requests as the international filing date.

A log of "Express Mail" deposits, in which notations are entered *by the person who deposited the correspondence* as "Express Mail" within one business day after deposit with the USPS is acceptable evidence in support of a petition filed under 37 CFR 1.10.[2] Petitioner has not included any physical showing which establishes that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. This showing must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. *See* 37 CFR 1.10(d).

The evidence of record at this time is insufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 March 2006. The international filing date remains 29 March 2006.

CONCLUSION

Applicant's request that international filing date of 27 March 2006 be accorded application PCT/US06/11393 is **DISMISSED without prejudice**. The international filing date remains 29 March 2006.

Any reconsideration on the merits of the petition under 37 CFR §1.10(c) must be filed

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[1] 37 CFR 1.10(b) clearly states that "correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence received a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked.

[2] Evidence that came in to being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number; attorney docket number; or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry into the log.

within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10(c)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE
PCT/US06/11393 . 30062006

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In re Application of ALLIED TUBE AND CONDUIT CORP.
PCT No.: PCT/US06/11393
Int. Filing: 29 March 2006
Priority Date: 28 March 2005
Attorney Docket No.: S-EMOOO16PCT
For: ANTIPERSONNEL BARRIER SYSTEM

DECISION ON

PETITION

UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "Petition to Correct Filing Date", which is treated as a petition under 37 CFR 1.10(d), filed in the United States Patent and Trademark Office (USPTO) on 05 May 2006, to accord a filing date of 27 March 2006 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/11393 with the United States Receiving Office, claiming a priority date of 28 March 2005 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 29 March 2006.

On 05 May 2006, applicants filed the present request, including a copy of the Customer Receipt of the "Express Mail" mailing label.

DISCUSSION

37 CFR 1.10(b) states that "correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon."

No transmittal letter was included with the application papers. The "Express Mail" mailing label number is located on the Certificate of Mailing, which accompanied the application papers. Applicant's copy of the "Express Mail" mailing label did not indicate any "Date-In". However, the original Express Mail envelope is located in the application file. Express Mail label #ED913927265US bears an illegible "Date-In". The USPS barrel-stamp is located on the envelope and indicates a deposit date of "MAR 29 2006". The USPTO date-stamped the envelope "March 29 2006". Further, a review of the USPS Track and Confirm statement indicates that Express Mail label #ED913927265US was accepted on 29 March 2006, the filing date the USPTO accorded to the application. Applicant did not provide a copy of the Customer Copy of the Express Mail label, bearing the date-in or USPS barrel date-stamp bearing the requested filing date 27 March 2006.

Counsel states that the firm's paralegal affixed "the proper postage [from a company postage meter] to an Express Mail envelope on March 27, 2006", inserted the above referenced application papers into the envelope and personally delivered to the Express Mail envelope "to the Mail Clerk in Applicant's mail room prior to 3:30PM on March 27, 2006." It is "Applicant's belief, on common and customary practices of the mail room, that the Express Mail package was properly hand-delivered to the USPS at 3:30PM on March 27, 2006."

Where applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable. 37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The statement by the involved USPS employee was not provided. Applicant did not submit a log of "Express Mail" deposits, in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to support a petition filed under 37 CFR 1.10.[1]

The evidence of record at this time is insufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 March 2006. The international filing date remains 29 March 2006.

CONCLUSION

Applicant's request that international filing date of 27 March 2006 be accorded application PCT/US06/11393 is **DISMISSED without prejudice**. The international filing date remains 29

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[1] Evidence that came in to being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number; attorney docket number; or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry into the log.

March 2006

PCT/US06/11393 .30062006

Any reconsideration on the merits of the petition under 37 CFR §1.10(c) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10(c)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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30 JUN 2006

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In re Application of ALLIED TUBE AND CONDUIT CORP.	DECISION ON
PCT No.: PCT/US06/11393	
Int. Filing: 29 March 2006	PETITION
Priority Date: 28 March 2005	
Attorney Docket No.: S-EMOOO16PCT	UNDER 37 CFR 1.10(d)
For: ANTIPERSONNEL BARRIER SYSTEM	

This decision is in response to applicant's "Petition to Correct Filing Date", which is treated as a petition under 37 CFR 1.10(d), filed in the United States Patent and Trademark Office (USPTO) on 05 May 2006, to accord a filing date of 27 March 2006 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/11393 with the United States Receiving Office, claiming a priority date of 28 March 2005 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 29 March 2006.

On 05 May 2006, applicants filed the present request, including a copy of the Customer Receipt of the "Express Mail" mailing label.

DISCUSSION

37 CFR 1.10(b) states that "correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon."

No transmittal letter was included with the application papers. The "Express Mail" mailing label number is located on the Certificate of Mailing, which accompanied the application papers. Applicant's copy of the "Express Mail" mailing label did not indicate any "Date-In". However, the original Express Mail envelope is located in the application file. Express Mail label #ED913927265US bears an illegible "Date-In". The USPS barrel-stamp is located on the envelope and indicates a deposit date of "MAR 29 2006". The USPTO date-stamped the envelope "March 29 2006". Further, a review of the USPS Track and Confirm statement indicates that Express Mail label #ED913927265US was accepted on 29 March 2006, the filing date the USPTO accorded to the application. Applicant did not provide a copy of the Customer Copy of the Express Mail label, bearing the date-in or USPS barrel date-stamp bearing the requested filing date 27 March 2006.

Counsel states that the firm's paralegal affixed "the proper postage [from a company postage meter] to an Express Mail envelope on March 27, 2006", inserted the above referenced application papers into the envelope and personally delivered to the Express Mail envelope "to the Mail Clerk in Applicant's mail room prior to 3:30PM on March 27, 2006." It is "Applicant's belief, on common and customary practices of the mail room, that the Express Mail package was properly hand-delivered to the USPS at 3:30PM on March 27, 2006."

Where applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable. 37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The statement by the involved USPS employee was not provided. Applicant did not submit a log of "Express Mail" deposits, in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to support a petition filed under 37 CFR 1.10.[1]

The evidence of record at this time is insufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 March 2006. The international filing date remains 29 March 2006.

CONCLUSION

Applicant's request that international filing date of 27 March 2006 be accorded application PCT/US06/11393 is **DISMISSED without prejudice**. The international filing date remains 29

---

[1] Evidence that came in to being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number; attorney docket number; or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry into the log.

March 2006.

Any reconsideration on the merits of the petition under 37 CFR §1.10(c) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10(c)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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24 APR 2007

MARY BREEN SMITH
SWANSON & BRATSCHUN, L.L.C.
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HIGHLANDS RANCH CO 80129

In re Application of
EVOLUTIONARY GENOMICS LLC
PCT No.: PCT/US2006/011615
Date of Receipt: 29 March 2006
Priority Date Claimed: 29 March 2005
Attorney's Docket No.: GENO20018PCT
For: EG1117 AND EG307 POLYNUCLEOTIDES AND USES THEREOF

: DECISION

This is in response to applicant's "REQUEST FOR RECONSIDERATION OF DECISION REGARDING REQUEST FOR RECTIFICATION UNDER RULE 91.1" filed 06 February 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 June 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating that the international application has a filing date of 29 March 2006.

On 15 June 2006, applicant filed a "REQUEST FOR RECTIFICATION UNDER RULE 91.1". The request indicated that the SEQ ID NOs: in the originally submitted specification starts at number 41" A new specification and claims were provided wherein the SEQ ID NOs: start at 1 rather than 41.

On 17 November 2006, a NOTIFICATION OF DECISION CONCERNING REQUEST FOR RECTIFICATION (Form PCT/ISA/217) was mailed refusing applicant's request for rectification under Rule 91.1. Specifically, it was noted that anyone would not immediately realize that nothing other than the proposed alteration of the SEQ ID NOs could have been intended.

On 06 February 2007, applicant submitted the instant "REQUEST FOR RECONSIDERATION OF DECISION REGARDING REQUEST FOR RECTIFICATION UNDER RULE 91.1", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition states that

> Applicant was aware at the time of filing of the instant application that the sequences were misidentified as SEQ ID NOs: 41-120, rather than as SEQ ID NOs: 1-80. This error arose due to a last minute decision by Applicant to pursue the SEQ ID NOs: number as 1-40 in another application.

At the time the rectification was requested, PCT Rule 91.1(b) stated

> Errors which are due to the fact that something other than what was obviously intended was written in the international application or other paper shall be regarded as obvious errors. The rectification itself shall be obvious in the sense that anyone would immediately realize that nothing else could have been intended than what is offered as rectification.

The sequence listing filed 29 March 2006 listed SEQ ID NOs: 1-80. The description and claims filed 29 March 2006 listed SEQ ID NOs: above 80. Thus, it would seem that "something other than what was obviously intended was written in the international application". However, anyone would not immediately realize that nothing else could have been intended other than the proposed rectification. For example, one might think that the sequence listing provided 29 March 2006 did not include all of the sequences it was intended to include (e.g., that SEQ ID NOs: 1-120 should have been included rather than SEQ ID NOs: 1-80). Or, one might think that some combination of changing SEQ ID NOs: listed in the specification and sequences set forth in the sequence listing was intended (e.g., the SEQ ID NOs: should have been SEQ ID NOs: 20-100 and the sequence listing should have contained SEQ ID NOs: 1-100). Further, it is not *immediately* clear that there are 80 SEQ ID NOs:, numbered 41-120, listed in either the description or in the claims. (I.e., a very close inspection of the description and claims would be required to determine which SEQ ID NOs: were included in the specification and claims. The SEQ ID NOs: are not set forth in numerical order in either the specification or the claims.)

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

This application is being returned to the RO/US for continued processing in accordance with this application.

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Legal Examiner
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13 APR 2007

Robert J. Ballarini
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In re Application of :
INTERDIGITAL TECHNOLOGY CORP. :
PCT No.: PCT/US06/12337 : DECISION ON PETITION
Int. Filing Date: 31 March 2006 :
Priority Date: 01 April 2005 : UNDER 37 CFR 1.182
Attorney Docket No.: ITC-2-1005.01.WO :
For: METHOD AND APPARATUS FOR SINGULAR VALUE DECOMPOSITION OF A CHANNEL MATRIX :

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. § 1.182" filed 06 November 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 March 2006, applicant filed a PCT Request with the United States Receiving Office (RO/US) claiming priority to U.S. application 60/667,326 filed 01 April 2005. The application was assigned international application number PCT/US06/12337. (See Form PCT/RO/105 mailed 01 June 2006.

On 06 November 2006, applicant filed the present petition under 37 CFR 1.182 requesting that the Office act on a request for withdrawal of international application purportedly filed 05 May 2006 notwithstanding that the withdrawal request identified international application number PCT/US06/11636.

DISCUSSION

Applicant's petition under 37 CFR 1.182 is **DISMISSED**.

It is unclear from the filing of 05 May 2006 which international application applicant is seeking to withdraw. The original request filed on 05 May 2006 has not been located. Applicant has supplied a stamped return postcard showing receipt in the USPTO. However, the postcard does not distinguish between the two international applications. The corporate applicant, title and attorney docket number information is the same for the two applications and the postcard does not list an international application number nor an international filing date. It lists these items as "Not Yet Known" despite the information being listed on the paper that the postcard supports. Further, the request to withdraw has been signed by Chang-Soo Koo. This individual

is not listed as an applicant and inventor for international application PCT/US06/12337, but does appear in this capacity in international application PCT/US06/11636. As it is not clear from the filing which international application the request is directed to, the petition can not be granted at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.182 is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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KILPATRICK STOCKTON LLP
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ATLANTA, GA 30309

In re Application of	:	
Hythiam, Inc.	:	DECISION ON
PCT No.: PCT/US06/13296	:	
Int. Filing Date: 06 April 2006	:	PETITION UNDER
Requested Priority Date: 07 April 2005	:	
Attorney's Docket No.: 55979-0480WP	:	37 CFR 1.10
For: Compositions For The Prevention Of Substance Abuse And Dependance	:	

This is in response to the "Request To Correct The Filing Date Of The International Application" filed on 09 October 2007, which is being treated under 37 CFR 1.10(d).

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail." The international application was accorded an international filing date of 06 April 2006, as shown on a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) mailed on 01 June 2006.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 07 April 2006, rather than 06 April 2006. This petition is being treated under 37 CFR 1.10(d) rather than 37 CFR 1.10(c) because the "Date-In" appearing on the Express Mail label does not match the international filing date sought by applicants, and is in conflict with other USPS notation, as described below.

37 CFR 1.10(d) provides that

> *Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:*
>
> *(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;*
>
> *(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and*
>
> *(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the*

deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition complies with **37 CFR 1.10(d)(1)**.

Regarding **37 CFR 1.10(d)(2),** review of the correspondence in question reveals that an Express Mail mailing label number, EV333523462US, was recorded on the Transmittal Letter accompanying and itemizing the filing of the instant international application; as such, 37 CFR 1.10(d)(2) has been satisfied.

With regard to **37 CFR 1.10(d)(3)**, counsel has provided a photocopy of the "Customer Copy" of Express Mail mailing label number EV333523462US, which shows a "date-in"of "04 06 07" (06 April 2007). Further inspection of the Express Mail mailing label reveals that it also bears a conflicting USPS plug stamp dated "APR 07 2006." Thus, it is not clear from inspection of these conflicting USPS notations appearing on the Express Mail label that the correspondence was deposited as Express Mail on the 07 April 2006 date sought by petitioner. Any renewed petition should be accompanied by evidence from the USPS, and/or evidence that came into being after the deposit as Express Mail and within one business day of that deposit, showing that the correct date of deposit was the date urged by the petition. In the absence of such a showing, 37 CFR 1.10(d)(3) has not been satisfied.

DECISION

The petition is **DISMISSED**, without prejudice, for the reasons described *supra*.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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20 JUN 2007

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DANIEL NESBITT
HASSE & NESBITT LLC
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CINCINNATI, OH 45249

In re Application of LSI INDUSTRIES, INC.	:	
PCT Application No.: PCT/US2006/013438	:	
Int. Filing Date: 12 April 2006	:	DECISION
Priority Date Claimed: 11 April 2005	:	
Attorney Docket No.: LSI-018	:	
For: FOLDABLE SUPPORT FOR A DOMED ILLUMINATION ELEMENT	:	

This is in response to applicant's "Request for Correction of Filing Date" filed 12 June 2006, which is being treated as a petition under 37 CFR 1.10(d). No petition fee is due.

BACKGROUND

On 12 April 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 12 April 2006.

On 02 June 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 12 June 2006, applicant filed the present petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter and the Customer Copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3), the petition does not contain an adequate showing (e.g. an affidavit signed by the person who actually mailed the correspondence in question) that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 11 April 2006. The petition does include sufficient corroborating evidence in the form of a dated USPS register receipt.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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www.uspto.gov

24 OCT 2007

DANIEL NESBITT
HASSE & NESBITT LLC
8837 CHAPEL SQUARE DR., SUITE C
CINCINNATI, OH 45249

In re Application of LSI INDUSTRIES, INC.	:	
PCT Application No.: PCT/US2006/013438	:	
Int. Filing Date: 11 April 2006	:	DECISION
Priority Date Claimed: 11 April 2005	:	
Attorney Docket No.: LSI-018	:	
For: FOLDABLE SUPPORT FOR A DOMED ILLUMINATION ELEMENT	:	

This is in response to applicant's "Renewed Petition under 37 CFR 1.10(d)" filed 25 June 2007.

BACKGROUND

On 11 April 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 12 April 2006.

On 02 June 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 12 June 2006, applicant filed a petition under 37 CFR 1.10(d).

On 20 June 2007, this Office mailed a decision dismissing the 12 June 2006 petition.

On 25 June 2007, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3), the petition contains an adequate showing (e.g. an affidavit signed by Daniel Nesbitt, the person who actually mailed the correspondence in question) that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 11 April 2006. Petitioner previously supplied sufficient corroborating evidence in the form of a dated USPS register receipt.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is GRANTED

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 02 June 2006 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International

Application Number and of the International Filing Date (Form PCT/RO/105) is attached. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

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

20 MAR 2007

Morton Chirnomas
19 Satinwood Way
Irvine, CA 92612

In re Application of LICARI	:	
PCT Application No.: PCT/US06/13628	:	
Int. Filing Date: 11 April 2006	:	DECISION
Priority Date Claimed: 11 April 2005	:	
Attorney Docket No.: LIC114PCT	:	
For: SUSPENDED FLUID DISPENSER SYSTEM AND APPARATUS	:	

This is in response to applicant's "Renewed Petition to Correct Filing Date" filed 29 January 2007, which is being treated under 37 CFR 1.10(d). No petition fee is due.

BACKGROUND

On 11 April 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 12 April 2006.

On 01 June 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 30 June 2006, applicant filed a petition under 37 CFR 1.10(d).

On 23 August 2006, this Office mailed a decision dismissing the 30 June 2006 petition.

On 29 January 2007, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter and the copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3), the petition contains an adequate showing (e.g. an affidavit signed by the person who actually mailed the correspondence in question) that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 11 April 2006. Furthermore, the petition includes sufficient corroborating evidence in the form of a mail log entry which came into being after deposit and within one business day after deposit of the correspondence in Express Mail.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 01 June 2006 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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PCT/US06/13678 14.07.2006

14 JUL 2006

Maria Erlinda C. Sarno
P.O. Box 1023
Artesia, CA 90702

In re Application of GAGNE et al	:	
PCT Application No.: PCT/US06/13678	:	
Int. Filing Date: 08 April 2006	:	DECISION
Priority Date Claimed: 25 April 2005	:	
Attorney Docket No.: (none)	:	
For: VERSATILE VALVE	:	

This is in response to applicant's "Petition to Enter Missing Figure 6A" filed 23 June 2006.

BACKGROUND

On 08 April 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 14 June 2006, the RO/US mailed, *inter alia*, a Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107), which indicated that the description referred to Figure 6A which was not included with the international application.

On 23 June 2006, applicant filed the present petition.

DISCUSSION

PCT Article 14(2) specifies that if the international application refers to drawings that are not included, the receiving Office shall notify applicant, and applicant may furnish the missing drawings within the prescribed time limit. Otherwise, any reference to the missing drawings shall be considered non-existent. The prescribed time limit is set forth in PCT Rule 20.1(a)(iii). Rule 20.1(a)(iii) provides that the missing drawings must be received within 30 days from the date on which the incomplete papers were filed in order to be included in the international application under Article 14(2).

In the present case, the missing Figure 6A was not furnished within 30 days from the date on which the incomplete papers were filed. Therefore, pursuant to Article 14(2), any reference to Figure 6A shall be considered non-existent. The time limit is not conditioned upon the date of notification by the receiving Office. A Notification Concerning Later Submitted Sheets or Drawings (Form PCT/RO/126) is attached to this decision.

CONCLUSION

For the reasons above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

MARIA ERLINDA C. SARNO
P.O. BOX 1023
ARTESIA, CALIFORNIA 90702

PCT

NOTIFICATION CONCERNING LATER SUBMITTED SHEETS OR DRAWINGS

(PCT Administrative Instructions, Sections 309(b) and (c) and 310(c) and (d))

Date of mailing *(day/month/year)*: 07 AUG 2006

Applicant's or agent's file reference:

IMPORTANT NOTIFICATION

International application No.: PCT/US2006/013678

International filing date/Date of first receipt of papers *(day/month/year)*: 08 Apr 2006

Applicant: GAGNE, MICHAEL C

1. The applicant is hereby notified that certain

☐ sheets *(specify page numbers)* _____

☒ drawings *(specify page or drawing numbers)* Figure 6A

pertaining to the application were received by this receiving Office on:

23 Jun 2006 (date of receipt of the later submission),

that is, on a date later than the date indicated above of first receipt of papers.

2. ☐ As the date of receipt of the later submission is **within 30 days** of the date of first receipt of papers, the later submission is included in the application for international processing and

   a. ☐ the date of receipt of the later submission becomes the date of receipt of the application.

   b. ☐ the date of receipt of the later submission becomes the international filing date.

3. ☒ As the date of receipt of the later submission is **later than 30 days** from the date of first receipt of papers, the later submission **will not be taken into account for the purposes of international processing** and

   a. ☐ the date of receipt of the application remains as of record.

   b. ☒ the international filing date remains as of record.

Name and mailing address of the receiving Office	Authorized officer
Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	Bryan Tung
Facsimile No. 571-273-3201	Telephone No. 571-272-3303

Form PCT/RO/126 (July 1992; reprint January 2004)

PCT/US2006/013678 .23062006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
RO/US
Certificate of Mailing

I certify that this correspondence is being deposited with the United States Postal Service on the date indicated below with sufficient postage as express mail in an envelope addressed to: Mail Stop PCT, Commissioner of Patent, P.O. Box 1450, Alexandria, VA 22313-1450.

Maria Erlinda C. Sarno
Reg. No. 37,436

6-23-06
Date of Deposit

In re Application of
Gagne, Michael C., et al

Serial No.: PCT/US2006/13678

Filed: 08 April 2006

For: VERSATILE VALVE

Authorized Officer:
Catherine Williams

PETITION TO ENTER MISSING FIGURE 6A

Commissioner of Patent
Mail Stop PCT
P.O. Box 1450, Alexandria, VA 22313-1450

Sir:

Please enter the submitted missing drawing, Fig. 6A, that was inadvertently not submitted with the rest of the drawings for the PCT application identified herein. A notice of the missing figure was mailed from your office on June 14, 2006, a date already more than 30 days after the date of receipt of the application. Consequently, a timely response was not possible. A copy of the noticed is attached for your reference.

Applicant request that the original date of receipt, 08 April 2006, be maintained due to the circumstances stated above.

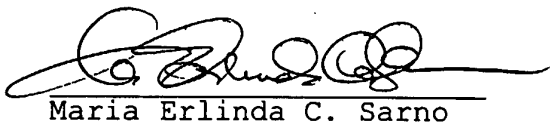
PCT/US06/13678 .23062006

In the event that there are any problems on this petition especially the maintenance of the original date of receipt as the international filing date, the Examiner is invited to telephone the Applicant's undersigned attorney at the telephone number listed below. Your kind consideration is respectfully requested.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 500255 for this petition.

This is sent in duplicate.

Respectfully submitted,



Maria Erlinda C. Sarno
Attorney for Applicant
Registration No. 37,436

P.O. Box 1023
Artesia, CA 90702
562-402-0418

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

MARIA ERLINDA C. SARNO
P.O. BOX 1023
ARTESIA, CALIFORNIA 90702

PCT

NOTIFICATION CONCERNING LATER SUBMITTED SHEETS OR DRAWINGS

(PCT Administrative Instructions, Sections 309(b) and (c) and 310(c) and (d))

Applicant's or agent's file reference	Date of mailing *(day/month/year)* 07 AUG 2006
	IMPORTANT NOTIFICATION
International application No. PCT/US2006/013678	International filing date/Date of first receipt of papers *(day/month/year)* 08 Apr 2006
Applicant GAGNE, MICHAEL C	

1. The applicant is hereby notified that certain

☐ sheets *(specify page numbers)* _____

☒ drawings *(specify page or drawing numbers)* Figure 6A

pertaining to the application were received by this receiving Office on:

23 Jun 2006 (date of receipt of the later submission),

that is, on a date later than the date indicated above of first receipt of papers.

2. ☐ As the date of receipt of the later submission is **within 30 days** of the date of first receipt of papers, the later submission is included in the application for international processing and

   a. ☐ the date of receipt of the later submission becomes the date of receipt of the application.

   b. ☐ the date of receipt of the later submission becomes the international filing date.

3. ☒ As the date of receipt of the later submission is **later than 30 days** from the date of first receipt of papers, the later submission **will not be taken into account for the purposes of international processing** and

   a. ☐ the date of receipt of the application remains as of record.

   b. ☒ the international filing date remains as of record.

Name and mailing address of the receiving Office Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 Facsimile No. 571-273-3201	Authorized officer Bryan Tung Telephone No. 571-272-3303

Form PCT/RO/126 (July 1992; reprint January 2004)

PCT/US06/13678 .23062006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
RO/US
Certificate of Mailing

I certify that this correspondence is being deposited with the United States Postal Service on the date indicated below with sufficient postage as express mail in an envelope addressed to: Mail Stop PCT, Commissioner of Patent, P.O. Box 1450, Alexandria, VA 22313-1450.

Maria Erlinda C. Sarno
Reg. No. 37,436

6-23-06
Date of Deposit

In re Application of
Gagne, Michael C., et al

Serial No.: PCT/US2006/13678

Filed: 08 April 2006

For: VERSATILE VALVE

Authorized Officer:
Catherine Williams

PETITION TO ENTER MISSING FIGURE 6A

Commissioner of Patent
Mail Stop PCT
P.O. Box 1450, Alexandria, VA 22313-1450

Sir:

Please enter the submitted missing drawing, Fig. 6A, that was inadvertently not submitted with the rest of the drawings for the PCT application identified herein. A notice of the missing figure was mailed from your office on June 14, 2006, a date already more than 30 days after the date of receipt of the application. Consequently, a timely response was not possible. A copy of the noticed is attached for your reference.

Applicant request that the original date of receipt, 08 April 2006, be maintained due to the circumstances stated above.

PCT/US06/13678 .230620 06

In the event that there are any problems on this petition especially the maintenance of the original date of receipt as the international filing date, the Examiner is invited to telephone the Applicant's undersigned attorney at the telephone number listed below. Your kind consideration is respectfully requested.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 500255 for this petition.

This is sent in duplicate.

Respectfully submitted,

Maria Erlinda C. Sarno
Attorney for Applicant
Registration No. 37,436

P.O. Box 1023
Artesia, CA 90702
562-402-0418

09 OCT 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

HARVEY LUNENFELD
8 PATRICIAN DRIVE
E. NORTHPORT, NY 11731

In re Application of	:	
AVAWORKS INCORPORATED	:	
PCT No.: PCT/US2006/013679	:	DECISION
Int. Filing Date: 10 April 2006	:	
Priority Date: None	:	
Attorney's Docket No.: 967-10-PCT	:	
For: DO-IT-YOURSELF PHOTO REALISTIC	:	
TALKING HEAD CREATION SYSTEM AND METHOD	:	

This decision is in response to applicant's petition under 37 CFR 1.181 filed on 04 September 2008 and the supplemental submissions to this petition filed on 07 October 2008 and 08 October 2008.

BACKGROUND

On 10 April 2006, applicant filed in the United States Receiving Office (RO/US) a request, description, claims, abstract, and drawings.

On 15 May 2006, the RO/US mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) inviting applicant to pay the balance due of $700.

On 08 June 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 10 April 2006. (Although this Form does not yet appear in the Image File Wrapper, it does appear in another USPTO database named POWER.)

On 29 June 2006, the RO/US mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) inviting applicant to pay the balance due including the late payment fee within one month of the date of mailing of the INVITATION. The INVITATION also indicated that failure to pay the total amount due with the time limit indicated may result in the international application being considered withdrawn by the RO/US. (Although this Form does not yet appear in the Image File Wrapper, it does appear in another USPTO database named POWER.)

On 29 August 2006, the RO/US mailed a NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN (Form PCT/RO/117) indicating that the international application is declared by the RO/US to be considered withdrawn for failure to pay the prescribed fees.

On 04 September 2008, applicant filed a petition under 37 CFR 1.181.

On 07 October 2008, as per a telephone discussion between the undersigned and Mr. Lunenfeld, a supplemental submission to the petition under 37 CFR 1.181 was filed.

On 08 October 2008, as per another telephone discussion with the undersigned and Mr. Lunenfeld, a second supplemental submission to the petition under 37 CFR 1.181 was filed.

DISCUSSION

If applicants can establish nonreceipt of the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE, then the application should not have been withdrawn. In such case, the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that "[f]or example, if a three month period for reply was set in the nonreceived Office action, a copy of the 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." The "COPY OF CALANDAR [sic] EVENTS FROM THE PERIOD BEGINNING APRIL 1, 2006 THROUGH DECEMBER 31, 2006" includes this information. (The supplemental declaration of facts filed 08 October 2008 clarified any confusion in the declaration of facts filed 04 September 2008 as to what the docket record filed 04 September 2008 showed.) Thus, item (3) has also been met. Accordingly, the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE mailed 29 June 2006 and the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED WITHDRAWN mailed 29 August 2006 are hereby VACATED. (Although not required, applicant has also established nonreceipt of the NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES mailed 15 May 2006.)

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE mailed 29 June 2006 is VACATED.

For the reasons set forth above, the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN mailed 29 August 2006 is VACATED.

The application is being forwarded to the United States Receiving Office for continued processing of the international application.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

CC: International Bureau of WIPO

31 AUG 2006

United States Patent and Trademark Office

31 AUG 2006

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

WILLIAM H. QUIRK
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO TX 78265

In re Application of KCI LICENSING, INC. PCT No.: PCT/US06/14506 Int. Filing Date: 14 April 2006 Priority Date: 04 November 2005 Attorney's Docket No.: VAC.737DBC.PCT For: Medical Closure Screen Installation Systems And Methods	DECISION ON PETITION

This is in response to applicants' petition under 37 CFR 1.10(d) filed on 10 July 2006.

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 11 April 2006.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, EV644391920US, was recorded on the PCT International Application Transmittal Letter which accompanied and itemized the filing of this international application (the original copy of which is present in the application file).

Regarding 37 CFR 1.10(d)(3), petitioner has provided a copy of the "Express Mail" mailing label, but no copy of the mailing label showing the "Date-In" is present in the application file. Petitioner has also provided a copy of a USPS "Track & Confirm" Web page corresponding to the Express Mail parcel in controversy, showing that it was "Enroute, April 13, 2006, 1:41 pm, DULLES, VA 20102." A copy of the "Track & Confirm" page generated on 16 August 2006 (copy enclosed) shows that the parcel was accepted as Express Mail on 12 April 2006.

Counsel has also provided a copy of a "Mail Docket Book" page referencing a "Date Mailed" of "4/11/2006" of correspondence including "Filing PCT Request, Specification, Drawings, Fee Sheet" related to the instant application number and Express Mail mailing label number. This sheet is introduced by a "Statement" signed by Cherie Ridout and declaring that "All "Date Mailed' entries that I have recorded in the Log have been entered on the same day as the day on which the corresponding items were mailed," and that the entry corresponding to the parcel in question "was entered in the Log by me on the same day that the correspondence was deposited with the USPS." However, Ms. Ridout also states that

> On April 11, 2006, I hand-carried the items contained in the Express Mail package EV644391920US to the KCI Mail Department, that I handed the package to Mr. Shawn Frazier in the KCI Mail Department, asked him if it would go out that day, and he acknowledged that it would.

While this tends to establish that Ms. Ridout intended the parcel to be deposited with the USPS as Express Mail on 11 April 2006, and that she transferred it to the control of others with that intention, it does not establish that the parcel actually was so deposited with the USPS. Petitioner has also provided a statement by Shawn Frazier, who states that he deposited the parcel with the USPS, but this statement is not supported by any business record clearly made after such deposit but within one business day of the deposit. Based on the totality of the evidence currently of record, it would not be appropriate to consider the requirements of 37 CFR 1.10(d) to have been satisfied.

DECISION

Applicants' petition is **DISMISSED**, without prejudice, for the reasons described *supra*.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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enc: Copy of "Track & Confirm" sheet

PCT/US06/14506 .31002006

UNITED STATES POSTAL SERVICE®

Ho

Track & Con

Track & Confirm

Search Results

Label/Receipt Number: **EV64 4391 920U S**
Detailed Results:

- **Delivered, April 14, 2006, 8:46 am, ALEXANDRIA, VA 22313**
- **Arrival at Unit, April 14, 2006, 7:13 am, DULLES, VA 20102**
- **Enroute, April 13, 2006, 1:41 pm, DULLES, VA 20102**
- **Acceptance, April 12, 2006, 9:00 pm, SAN ANTONIO, TX 78246**

Track & Confirm

Enter Label/Receipt Num

< Back

Return to USPS.com Home >

Notification Options

Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >

POSTAL INSPECTORS
Preserving the Trust

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NADEEM G. BRIDI
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LEGAL DEPARTMENT-INTELLECTUAL PROPERTY
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SAN ANTONIO, TX 78230

In re Application of	:
KSI LICENSING, INC. et al.	: DECISION ON
PCT No.: PCT/US06/14506	:
Int. Filing Date: 13 April 2006	: PETITION
Priority Date: 04 November 2005	:
Attorney's Docket No.: VAC.737DBC.PCT	: UNDER 37 CFR 1.10(d)
For: Medical Closure Screen Installation Systems and Methods	:

This decision is in response to applicant's petition under 37 CFR 1.10(d) filed 03 October 2006, requesting correction of the international filing date to accord a date of 11 April 2006 to the above-identified application.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 13 April 2006 to the above-identified application.

On 05 July 2006, applicant filed a first petition requesting correction of the international filing date to accord a date of 11 April 2006 to the above-identified application. The petition included a copy of the "Express Mail" mailing label EV644391920US, a copy of the PCT International Application Transmittal letter showing the Express Mail mailing Number EV644391920US, a copy of a "Mail Docket Book" page, a statement by Ms. Cherie Ridout who "hand carried the package from the signatory's office to Applicant's mail room" and, a statement by Mr. Shawn Frazier who "received the package from Ms. Ridout and deposited it in an Express Mail drop box of the USPS before the last scheduled pick-up on April 11, 2006." The first petition was dismissed because, although intent to deposit the parcel with the USPS on April 11, 2006 was shown, the totality of evidence did not establish that the parcel was actually deposited with the USPS on April 11, 2006.

DISCUSSION

On 03 October 2006 applicant filed a second petition requesting correction of the international filing date to accord a date of 11 April 2006 to the above-identified application.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing number, EV644391920US, was recorded on the PCT International Application Transmittal letter in this application.

With regard to 37 CFR 1.10(d)(3), petitioner explains that after further investigation, it is now believed that "the package was not contained in a USPS Express Mail envelope" (underlining in original). Petitioner concludes that because "the package was not contained in a USPS Express Mail envelope...the package was processed together with the remainder of KCI's mail for April 11, 2006." Petitioner provides a Web page copy of the USPS's "Quick Service Guide" for preparing and depositing Express Mail to show that an Express Mail envelope is "not required for Express Mail service" (underlining in original). Petitioner also provides a copy of a "summary verification report" stamped by the USPS with a date of "APR 11 2006" to show that the package was deposited on April 11, 2006.

Although the USPS stamped "summary verification report" shows that KCI's mail in general was processed on April 11, 2006, it does not establish that the package was actually deposited with the USPS. The "summary verification report" shows that on April 11, 2006 at 8:22 PM, Mr. Shelton Presort deposited KCI's mail with the U.S. Postal Service, but does not support that April 11, 2006 is the date the package in question was deposited with the USPS, because the "summary verification report" does not specifically mention the package. Therefore, petitioner's position that the package was deposited with KCI's mail on April 11, 2006 is not supported by the USPS stamped "summary verification report."

Based on the totality of the evidence currently of record, it would not be appropriate to consider the requirements of 37 C.F.R. 1.10(d) to have been satisfied.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of **11 April 2006** is **DISMISSED**, without prejudice, for the reasons described *supra*.

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USPTO/14507/18072006

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William H. Quirk
Kinetic Concepts, Inc.
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San Antonio, TX 78265

18 JUL 2006

In re Application of :
KCI, INC. :
PCT No.: PCT/US06/14507 :
Int. Filing Date: 13 April 2006 : DECISION ON PETITION
Priority Date: None :
Attorney Docket No.: VAC.737A.PCT : UNDER 37 CFR 1.10(d)
For: MEDICAL CLOSURE CLIP SYSTEM :
AND METHOD :

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.10(d)" filed 05 July 2006 in the United States Patent and Trademark Office (USPTO) to accord an international filing date of 11 April 2006 to the above-identified international application. No petition fee is required.

BACKGROUND

Applicant filed the present international application in the United States Receiving Office (RO/US).

On 07 June 2006, the United States Receiving Office mailed the following: "Notification of Concerning Prescribed Fees" (Form PCT/RO/102); "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110). All documents listed the international filing date as 13 April 2006.

On 05 July 2006, applicant filed the present response arguing that the international filing date should be 11 April 2006.

DISCUSSION

37 CFR 1.10(d) allows an applicant to petition to correct an incorrectly entered "date-in" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, May petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1) and (2).

However, petitioner has not provided a satisfactory showing under 37 CFR 1.10(d)(3). Applicant has provided a copy of the mail log indicating that the mailing in question was mailed on "4/11/2006" as well as statements from Ms. Cherie Ridout and Mr. Shawn Frazier detailing to the preparation and depositing of the Express Mail package prior to the last scheduled pick-up on 11 April 2006. As applicant has not provided any evidence from the USPS to support a "date-in" date of 11 April 2006, the only impartial evidence available is the mail log. As shown above, 37 CFR 1.10(d)(3) requires this evidence to come into being "after deposit." It is unclear from the statement of Ms. Ridout whether the mail log entry was made prior to or after deposit. Ms. Ridout states that "The Log reflects deposit on April 11, 2006, as was entered in the Log by me on the same day that the correspondence was deposited with the USPS." In order for the mail log to corroborate the claim that the mailing was deposited on 11 April 2006, applicant must provide an additional statement from Ms. Ridout confirming that it is her practice to wait until after she has given Express Mail mailings to the KCI Mail Department before entering the information on the mail log and that there is nothing to indicate that this practice was not followed in the present situation.

As petitioner has not provided a satisfactory showing under 37 CFR 1.10(d) it is not possible to grant applicant's petition at this time.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 03 May 2005 is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

PCT/US06/14507 18072006

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of	:	
KCI, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/14507	:	
Int. Filing Date: 13 April 2006	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: VAC.737A.PCT	:	37 CFR 1.10(d)
For: MEDICAL CLOSURE CLIP SYSTEM AND METHOD	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 18 September 2006 in the United States Patent and Trademark Office (USPTO) to accord an international filing date of 11 April 2006 to the above-identified international application. No petition fee is required.

BACKGROUND

On 18 July 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d). Applicant was afforded two months to file any request for reconsideration.

On 18 September 2006, applicant filed the present renewed petition.

DISCUSSION

As explained in the decision mailed 18 July 2006, 37 CFR 1.10(d) allows an applicant to petition to correct an incorrectly entered "date-in" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, May petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant previously satisfied items (1) and (2).

Applicant's present filing does not satisfy the remaining item. 37 CFR 1.10(d) provides an avenue of relief where the USPS has accorded an incorrect "date-in" date where the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Applicant's present submission shows that the parcel in question was not so deposited. Instead, it was accidently processed as regular mail and did not reach the USPS prior to the last scheduled pickup for Express Mail. As the USPS did not make the mistake and did not receive the parcel prior to the last scheduled pickup for Express Mail on 11 April 2006, the USPTO can not change the international filing date pursuant to 37 CFR 1.10(d).

CONCLUSION

For the reasons stated above, applicant's renewed petition is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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14 MAY 2007

Burns & Levinson, LLP
1700 K Street, NW
Suite 720
Washington, DC 20006

In re Application of
Richard H. Lugg
PCT No.: PCT/US06/14902
Int. Filing Date: 20 April 2006
Priority Date: 20 April 2005
Attorney Docket No.: 26616.0.7-PCT
For: HYBRID JET/ELECTRIC VTOL AIRCRAFT

DECISION ON PETITION

This decision is issued in response to applicant's "Response to Invitation to Correct Priority Claim in the International Application" filed on 13 March 2007, treated herein as a petition under PCT Rule 26bis. No petition fee is required.

BACKGROUND

On 20 April 2006, applicant filed international application PCT/US06/14902. The Request (Form PCT/RO/101) listed two U.S. provisional priority applications: (1) 60/6673,166, filed 20 April 2005; and (2) 60/695,690, filed 30 June 2005. The Request included a request for the United States Receiving Office (RO/US) to forward certified copies of the priority documents to the International Bureau (IB).

On 22 August 2006, the International Bureau issued a "Invitation to Correct Priority Claim" (Form PCT/IB/316) indicating that, based on applicant's 20 April 2006 submission, the application number for first priority claim does not comply with usual standard.

On 26 January 2007, the RO/US issued a "Communication In Case For Which No Other Form Is Applicable" (Form PCT/RO/132) which stated "[p]lease correct priority claim number of item (1) box number vi."

On 13 March 2007, applicant's filed the "Response to Invitation to Correct Priority Claim in the International Application" considered herein.

DISCUSSION

PCT Rule 26bis.1(a) states the following:

> The applicant may correct or add a priority claim by a notice submitted to the receiving Office or the International Bureau within a time limit of 16 months from the priority date or, where the correction or addition would cause a change in the priority date, 16 months from the priority date as so changed, provided that such notice may be submitted until the expiration of four months from the international filing date.

Applicant's correction of the defective priority claim was filed 13 March 2007, after the expiration of the PCT Rule 26bis deadline on 20 August 2006. Accordingly, under PCT Rule 26bis, the correction of the defective priority claims was not timely filed and cannot be entered in the present application. Applicant argues that the 13 March 2007 submission should be treated as timely and the requested correction entered because the "Invitation to Correct Priority Claim" (Form PCT/IB/316) was received after expiration of the 16 month deadline. However, the USPTO does not have the authority to grant the requested extension of the 16 month deadline set forth in PCT Rule 26bis.1. Accordingly, applicant's assertion that the Invitation To Correct Priority Claim was not received until 22 August 2006 (two days after the correction was due) does not alter the result.

Applicant should note that, pursuant to PCT Rule 26bis.2(b):

> A priority claim shall not be considered not to have been made only because the indication of the number of the earlier application referred to in Rule 4.10(a)(ii) is missing or because an indication in the priority claim is not the same as the corresponding indication appearing in the priority document.

Pursuant to this provision, although correction will be required at the national stage, the defective priority claim will not be considered not to have been made.

CONCLUSION

For the reasons set forth above, applicant's petition is **DISMISSED** without prejudice.

The 13 March 2007 response to the Invitation To Correct Priority Claim is rejected as untimely under PCT Rule 26bis. The priority information of record remains as set forth in the originally filed Request.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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11 DEC 2006

RONALD C. HARRIS, JR.
2830 SOUTH MEADE STREET
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In re Application of	:	
VERNON, Robert D.	:	
PCT No.: PCT/US2006/015629	:	DECISION
Int. Filing Date: 26 April 2006	:	
Priority Date: 03 May 2005	:	
Attorney Docket No.: RDV003PCT	:	
For: URINE RECEPTACLE AND APPARATUS FOR AUTOMATED DISPOSAL OF URINE	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.181 (TO REINSTATE APPLICATION SER. NO. PCT/US2006/015629 PER, INCLUDING DECLARATION OF APPLICANT'S REPRESENTATIVE, RONALD C. HARRIS, JR.)" filed via facsimile transmission on 31 October 2006.

BACKGROUND

On 26 April 2006, applicant submitted, *inter alia*, a PCT Request, a PCT Fee Calculation Sheet, a description, claims, abstract, and drawings. The application papers were assigned international application number PCT/US06/15629.

On 19 May 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) indicating that a balance of $1,754 was due.

On 15 June 2006, the RO/US mailed, *inter alia*, a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 26 April 2006.

On 16 June 2006, applicant submitted a "PAYMENT OF PRESCRIBED FEES FOR APPLICATION NO. PCT/US2006/015629". The check accompanying this submission was returned for insufficient funds.

On 14 July 2006, the RO/US mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) indicating that a balance of $1,734 was due in addition to a late payment fee of $543. The INVITATION set a one-month time limit for response.

On 24 July 2006, applicant submitted a "PAYMENT OF PRESCRIBED FEES FOR APPLICATION NO. PCT/US/2006/015629 IN RESPONSE TO NOTICE OF RETURNED PAYMENT" which was accompanied by a credit card payment form for the $1,754 mentioned in the NOTIFICATION mailed 19 May 2006 and $50 for "the returned payment processing fee."

On 29 August 2006, a NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN (Form PCT/RO/117) was mailed indicating that the application was declared to be withdrawn by the RO/US for failure to pay the prescribed fees within the time limit set in the INVITATION mailed 14 July 2006.

On 15 September 2006, applicant filed a "PETITION TO REINSTATE APPLICATION SER. NO. PCT/US2006/015629 PER 37 C.F.R. § 1.181, INCLUDING DECLARATION OF APPLICANT'S REPRESENTATIVE, RONALD C. HARRIS, JR.", which was accompanied by, *inter alia*, a copy of a NOTICE OF RETURNED PAYMENT sent by the USPTO on 07 July 2006.

On 23 October 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.181 without prejudice. Specifically, it was noted that a copy of the docket record where the non-received Office action would have been entered had it been received was not provided.

On 31 October 2006, applicant submitted the instant "RENEWED PETITION UNDER 37 C.F.R. § 1.181 (TO REINSTATE APPLICATION SER. NO. PCT/US2006/015629 PER, INCLUDING DECLARATION OF APPLICANT'S REPRESENTATIVE, RONALD C. HARRIS, JR.)" which was accompanied by, *inter alia*, a copy of the docket record where the non-received Office action would have been entered had it been received.

DISCUSSION

Petitioner states that the INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) mailed 14 July 2006 was never received.

The showing required to establish nonreceipt of an Office communication must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 23 October 2006, item (1) has been satisfied.

Items (2) and (3) have now been satisfied as well.

CONCLUSION

For the reasons set forth above, the renewed petition under 37 CFR 1.181 is **GRANTED**.

The INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE mailed 14 July 2006 and the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN mailed 29 August 2006 are VACATED.

The application is being forwarded to the RO/US for continued processing of the application.

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CC: International Bureau of WIPO

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03 AUG 2006

Gordon D. Copelein
1046 Oakpointe Place
Dunwoody, GA 30338-2600

In re Application of	:	
ALLEN M. STILLMAN	:	
PCT No.: PCT/US06/15655	:	DECISION ON
Int. Filing Date: 26 April 2006	:	REQUEST FOR REFUND
Priority Date: 27 April 2005	:	UNDER 37 CFR 1.446
Agent's File Reference: PORTFIXT PCT	:	
For: PORTABLE LIGHTING FIXTURE	:	

This decision is in response to applicant's communication filed 01 June 2006. Applicant's communication has been treated as a petition under 37 CFR 1.446 for the refund of excess search fees in the amount of $700. The petition is **DISMISSED.**

BACKGROUND

On 26 April 2006, applicant filed international application PCT/US06/15655. Applicants claimed priority to a U.S. provisional application filed 27 April 2005 as well as to a U.S. non-provisional application filed 24 April 2006 which was identified only by the filing date.

On 09 June 2006, the United States Receiving Office (RO/US) received applicant's payment of the international search fee in the amount of $1,000.

On 01 June 2006, applicant filed the present petition requesting a refund in the amount of $700 for having a prior application filed under 35 U.S.C. 111(a).

DISCUSSION

37 CFR 1.445(a)(2)(i) provides that:

"If a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under section 1.16(a) has been filed and the corresponding prior United States National application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application.....$300.

***

A review of the application file reveals that applicant did not provide the title in support of the request to use results of earlier search from an application filed 24 April 2006 pursuant to 35 U.S.C. 111(a) at the time of filing. Therefore, applicant has not satisfied the conditions set forth in 37 CFR 1.445(a)(2)(i) for a reduced search fee. Accordingly, applicant's petition for a refund in the amount of $700 cannot be granted.

CONCLUSION

For the above reasons, the request for refund is **DISMISSED.**

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

JSF/LS:jf

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

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0 1 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STANLEY HOWARD ZEYHER
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HADDONFIELD NJ 08033-1414

In re Application of	:	
ZEYHER	:	DECISION
PCT No.: PCT/US2006/017789	:	
Date of Receipt: 04 May 2006	:	
Priority Date Claimed: 04 August 2005	:	
Attorney's Docket No.: None	:	
For: PLANETARY GYROSCOPIC DRIVE SYSTEM	:	

This is in response to applicant's submission filed 21 May 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 13 July 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE indicating that the international application has a filing date of 04 May 2006.

On 13 July 2006, the RO/US also mailed a NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION (Form PCT/RO/107) indicating that the RO/US had found that the drawing referred to on page 5 of the description were not included in the international application. The NOTIFICATION further indicated that the drawings may be submitted within 30 days from the date of receipt (04 May 2006) of the international application papers.

On 21 July 2006, applicant submitted the drawings.

On 02 November 2006, the RO/US mailed a NOTIFICATION CONCERNING LATER SUBMITTED SHEETS OR DRAWINGS (Form PCT/RO/126) indicating that the drawings were received by the RO/US later than 30 days from the date of first receipt of papers and thus the drawings would not be taken into account for the purposes of international processing.

On 29 November 2006, applicant filed a submission requesting that the submission filed 12 July 2006 be included for the purpose of international processing.

On 23 December 2006, applicant filed a submission requesting under PCT Rules 20.6 and 26.2 that the time limit for submitting the missing drawing be extended to 21 July 2006.

On 14 January 2007, applicant filed a NOTICE OF WITHDRAWAL (Form PCT/IB/372) requesting that the application be withdrawn.

On 15 January 2007, the International Bureau of WIPO filed a NOTIFICATION OF WITHDRAWAL OF INTERNATIONAL APPLICATION OR DESIGNATIONS (Form PCT/IB/307) indicating that the application had been withdrawn on 15 January 2007.

On 12 February 2007, applicant filed a petition requesting that the application be reinstated as corrected 21 July 2006. The petition was unsigned.

On 21 May 2007, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.181. The petition requests that the petition filed 12 February 2007 be withdrawn. The submission also included corrections of obvious errors under PCT Rule 91.1.

DISCUSSION

The request to withdraw the petition filed 12 February 2007 is granted.

The correction of obvious errors under PCT Rule 91.1 are refused. The application has been withdrawn. Therefore, any correction under PCT Rule 91.1 are MOOT.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 filed 21 May 2007 is **GRANTED**.

For the reasons set forth above, the corrections under PCT Rule 91.1 filed 21 May 2007 are **REFUSED** as **MOOT**.

Daniel Stemmer
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In re Application of:	:	DECISION
NETWORK EQUIPMENT TECHNOLOGIES, INC.	:	
PCT Application No.: PCT/US2006/018220	:	
Int. Filing Date: 10 May 2006	:	
Priority Date: 10 May 2005	:	UNDER
Atty Docket No.: 10327-114-3P	:	
For: LAN-BASED UMA NETWORK CONTROLLER WITH	:	
PROXY CONNECTION	:	37 CFR 1.181

This decision is in response to applicant's communication filed 07 August 2006 requesting correction of the international filing date, which has been treated as a petition under 37 C.F.R. 1.10(c). No petition fee is required.

BACKGROUND

On 10 May 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 12 May 2006.

On 06 July 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) and an Invitation to Correct Priority Claim (Form PCT/RO/110).

On 07 August 2006, applicant filed a petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the present petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter filed with the international application papers and the copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3) above, the copy of the Express Mail mailing label shows a "date-in" of 10 May 2006.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 06 July 2006 is hereby VACATED.

The Invitation to Correct Priority Claim (Form PCT/RO/110) mailed 06 July 2006 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: 571-272-3285

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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20 FEB 2007

Nancy Huelskamp
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St/ Louis, MO 63167

In re Application of :
MONSANTO TECHNOLOGY, LLC :
PCT No.: PCT/US2006/018535 :
Int. Filing Date: 10 May 2006 :
Priority Date: 10 May 2005 : **DECISION**
Attorney Docket No.: 38-21(53708)A :
For: GENES AND USES FOR PLANT IMPROVEMENT :

This decision is in response to the "Petition Under 37 CFR § 1.182" filed with the United States Receiving Office (RO/US) on 06 December 2006.

BACKGROUND

On 10 May 2006, applicant submitted a Request and international application (IA) which was accompanied by, *inter alia*, a computer listing (CDs 2 copies), a sequence listing (CDs - 3 copies) and tables related to the sequence listing (CDs - 2 copies).

On 11 September 2006, the RO/US mailed a Notification informing applicant that the filing of a computer listing in electronic form is not provided for under the PCT. Applicant was also told that the RO/US only accepts the filing of sequence listings and related tables under PCT Administrative Instructions (AI) § 801(c) and the submission of the sequence listing and related tables did not comply with the RO/US guidelines for acceptance of submission under AI § 801(c), thus did not form part of the IA.

On 06 December 2006, applicant submitted a petition under 37 CFR 1.182 which was accompanied by, *inter alia*, four copies of the sequence listing on CD and three copies of tables (Table 2 & 22) on CD. Applicant requests that the sequence listing and table CDs be accepted and included as part of the IA.

DISCUSSION

At the present time, the RO/US does not accept the filing of international applications under AI § 801(a). The RO/US will, however, accept such applications in a particular case pursuant to AI § 801(c). In order to be accepted under AI § 801(c),

applicant must follow the guidelines set forth in section 1823.02 of the MPEP and submit a complete copy of the international application, wherein the sequence listing part of the application is submitted on four CDs rather than on paper. Each CD must be in the ASCII format and properly labeled. The application is to be accompanied by a transmittal letter entitled "Compact Disc Transmittal Sheet for Submission of Sequence Listing and/or Tables to the United States Receiving Office Under PCT Administrative Instructions - Part 8." Applicant must also provide the required fee.

The Request filed 10 May 2006 identified three CDs for sequence listing and two CDs for tables related thereto as part of the IA and that a sequence listing in electronic form was filed under AI § 801. In addition, the Fee Calculation Sheet included the sequence listing CDs in calculating fees for the application and the sequence listing was referenced in the description. However, applicant did not provide a statement certifying that the copies of the sequence listing and tables were identical to each other, submit the required number of copies of each CD, or label the CDs correctly. Further, Table 2 was in WORD format, which is unacceptable. Therefore, the sequence listing and tables were not accepted under AI § 801(c).

In the petition, applicant requests that the RO/US allow that (1) the sequence listing be accepted as part of the IA pursuant to AI § 801(c); and (2) allow applicant to submit a new table CD consisting of related Table 2 and a new Table 22 to also be included as part of the IA.

Sequence Listing CD

In the papers filed 06 December 2006, applicant submitted a petition under 37 CFR 1.182, a $400.00 petition fee, and four copies of the sequence listing on CD. Applicant states that "no new matter is introduced to the sequence listing, tables and the substitute pages."

Applicant has now provided the required number of copies of the sequence listing CDs. The CDs are now labeled properly. Applicant also provided a statement certifying that the copies of the sequence listing and tables were identical to each other. This is sufficient for a grantable petition under 37 CFR 1.182.

Tables Part CD

Applicant also submitted three copies of the tables on CD with the subject petition. The Request identified in Box No. IX(c), two CDs for tables related thereto as part of the IA. Table 2 was also referenced in the description.

Applicant has provided the required number of copies of the Tables Part CDs

and the CDs are labeled properly. However, Table 2 was originally submitted as a WORD document. In the new CD filed 06 December 2006, it appears that Table 2 was converted to a text format, but no explanation has been provided. Applicant must specify any changes made to Table 2 for it to be accepted. In addition, applicant has included Table 2 with a new Table 22 on the same CD. As discussed below, Table 22 may not be acceptable and a new Tables Part CD containing only Table 2 may be required.

With regard to Table 22, the filing of a computer listing in electronic form is not provided for under the PCT. As such, the computer listing CD submitted on 10 May 2006 is not considered part of the IA. In the petition, applicant states that the "computer listing CDs as originally filed contained two folders, i.e. folder hmmer-2.3.2 (profile HMM software for biological sequence analysis Version 2.3.2) and folder 288pfamDir (288 profile Hidden Markov Models). Applicant hereby submits a new table, Table 22 in the file named 288pfam_table.txt, which is composed of the text content of 288pfamDir, and substitute pages 1, 12 and 101 of this international application." Applicant claims that the "[o]nly changes in these pages are identifying profile Hidden Markov Model databases as in the new Table 22 in lieu of referring to the computer listing."

Applicant must specify what provision of the PCT is to be used to include Table 22 as part of the IA. It is also noted that the computer listing CD originally submitted on 10 May 2006 is not in compliance with ASCII and formatted in accordance with Administrative Instructions Annex C, paragraph 41 and Administrative Instructions Annex C-bis. *See* § 1823.02 MPEP. As such, it is not possible to determine if any new matter is included in Table 22.

For these reasons, Table 22 cannot be added to the IA at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is **GRANTED** in part and **DISMISSED** in part.

The sequence listing CD is accepted under AI § 801(c). However, the Tables Part CD is not accepted.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

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St/ Louis, MO 63167

In re Application of
MONSANTO TECHNOLOGY, LLC
PCT No.: PCT/US2006/018535
Int. Filing Date: 10 May 2006
Priority Date: 10 May 2005
Attorney Docket No.: 38-21(53708)A
For: GENES AND USES FOR PLANT IMPROVEMENT

DECISION

This decision is in response to the "Request for Reconsideration of Petition Under 37 CFR § 1.182" filed with the RO/US on 20 April 2007.

BACKGROUND

On 20 February 2007, a decision granting applicant's request to allow the sequence listing CD be accepted as part of the international application pursuant to Administrative Instruction (AI) § 801(c) was mailed. Table 2 and Table 22 were not accepted for various reasons. Applicant was given two months to respond.

On 20 April 2007, applicant filed a request for reconsideration which purportedly was accompanied by three copies of CD's containing Table 2 and three copies of CD's containing Table 22.

DISCUSSION

In response to the decision mailed 20 February 2007, applicant states that Table 2 was changed to a text file in response to the Notification mailed 11 September 2006 and that no other change has been made. Applicant purportedly submitted three CD diskettes containing Table 2 only.

The Table 2 CD's purportedly filed with the renewed petition are not located in the application file.

Regarding Table 22, applicant states that the subject matter is submitted as a table related to an amino acid sequence listing as permitted under Administrative Instruction Section 801. Applicant claims that Table 22 contains subject matter originally submitted with no new matter and that it is simply a change of format.

PCT/US2006/018535

Applicant purportedly submitted three CD diskettes containing Table 22 only.

The Table 22 CD's also purportedly filed with the renewed petition are also not located in the application file.

Since the CD's of Table 2 and Table 22 are not located in the file, applicant's request cannot be granted at this time.

CONCLUSION

For the reason discussed above, applicant's petition for reconsideration is hereby **DISMISSED** without prejudice.

In any renewed petition, applicant must provide copies of the CD's containing Table 2 and Table 22 along with sufficient evidence (such as a date-stamped postcard receipt) showing that the CD's were submitted with the renewed petition on 20 April 2007. *See* § 503 MPEP.

If reconsideration is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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14 OCT 2008

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Nancy Huelskamp
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St/ Louis, MO 63167

In re Application of :
MONSANTO TECHNOLOGY, LLC :
PCT No.: PCT/US2006/018535 :
Int. Filing Date: 10 May 2006 :
Priority Date: 10 May 2005 : **DECISION**
Attorney Docket No.: 38-21(53708)A :
For: GENES AND USES FOR PLANT :
IMPROVEMENT :

This decision is in response to the "Request for Reconsideration of Petition Under 37 CFR § 1.182" filed with the RO/US on 14 July 2007.

BACKGROUND

On 20 February 2007, a decision granting applicant's request to allow the sequence listing CD be accepted as part of the international application pursuant to Administrative Instruction (AI) § 801(c) was mailed. Table 2 and Table 22 were not accepted for various reasons. Applicant was given two months to respond.

On 20 April 2007, applicant filed a request for reconsideration which purportedly was accompanied by three copies of CD's containing Table 2 and three copies of CD's containing Table 22.

On 13 May 2008, a decision dismissing applicant's petition filed 20 April 2007 was mailed. Applicant was given two months to respond.

On 14 July 2008, applicant filed a second request for reconsideration of the petition under 37 CFR 1.182 which was accompanied by, *inter alia*, a date-stamped postcard receipt for the documents filed 20 April 2007.

On 09 October 2008, at the request of the undersigned, applicant submitted three copies of each of the CD's containing revised Table 2 and 22.

DISCUSSION

In the petition filed 20 April 2007, applicant states that Table 2 was changed to a text file in response to the Notification mailed 11 September 2006 and that no other

change has been made. Regarding Table 22, applicant states that the subject matter is submitted as a table related to an amino acid sequence listing as permitted under Administrative Instruction Section 801. Applicant claims that Table 22 contains subject matter originally submitted with no new matter and that it is simply a change of format. However, the three copies of each CD containing Table 2 and Table 22 could not be located.

As such, a decision on the merits of applicant's claim could not be made[1].

In the renewed petition filed 14 July 2008, applicant provided evidence in the form of a date-stamped postcard receipt showing that three copies of the CDs containing Table 2 and Table 22 were originally submitted on 20 April 2007.[2] This is acceptable evidence that the CDs containing Table 2 and Table 22 were originally filed 20 April 2007. *See* § 503 MPEP.

A review of both Table 2 and table 22 show that the tables are filed in a different format and contain no new matter. Applicant's claim that Table 22 is submitted as a table related to an amino acid sequence listing as permitted under Administrative Instruction Section 801 is accepted.

Therefore, both Table 2 and Table 22 are acceptable.

CONCLUSION

For the reason discussed above, applicant's renewed petition under 37 CFR 1.182 is hereby **GRANTED**.

Table 2 and Table 22 are considered part of the above-identified international application.

This application is being returned to the RO/US for further processing and for forwarding of a copy of this decision to the International Bureau.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

---

[1] *See* decision mailed 13 May 2008.

[2] Applicant resubmitted three copies of each CD to the undersigned as requested on 09 October 2008.

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

21 FEB 2007

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Arthur M. Peslak
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In re Application of :
JAVARUSKI, RUSSELL J. :
PCT No.: PCT/US2006/019104 :
Int. Filing Date: 15 May 2006 : **DECISION**
Priority Date: 17 May 2005 :
Attorney Docket No.: JAV-001 :
For: TRANSPARENT WINDSHIELD WIPER BLADE & ARM :

This decision is in response to the "Request for Reconsideration of Decision on Petition" filed with the United States Receiving Office (RO/US) on 03 January 2007.

BACKGROUND

On 15 May 2006, applicant filed papers purporting to be an international application with the RO/US.

On 14 July 2006, an Invitation to Correct the Purported International Application (Form PCT/RO/103) was mailed indicating that the subject application did not contain a part which on the face appeared to be a description or claims as required by PCT Article 11(1)(iii)(c-d) and PCT Rule 5-6.

On 06 September 2006, applicant filed a petition under 37 CFR 1.182 accompanied by, *inter alia*, the $400.00 petition fee and a copy of U.S. application No. 11/130,879.

On 02 November 2006, a decision dismissing applicant's petition was mailed as there was no record that the priority document was included with the original papers. Applicant was given two months to respond.

On 03 January 2007, applicant filed a renewed petition requesting reconsideration of the prior decision.

DISCUSSION

As previously indicated, there is no record in the RO/US that a certified copy of the priority document was filed with the papers on 15 May 2006. Nonetheless, a check

with the International Bureau (IB) verifies that the RO/US did forward a copy of the priority document to the IB. This is sufficient evidence to show that a certified copy of the priority document (U.S. application No. 11/130,879) was included with the papers filed 15 May 2006.

In order for the RO/US to accord an international filing date as of the date of original deposit of the application papers, the application papers must fulfill all of the requirements of PCT Article 11. Among other items, PCT Article 11, via Sections (1)(iii)(d) and (1)(iii)(e), requires that the application papers include parts which on the face of them appear to be a description and a claim, or claims.

A review of the application papers deposited on 15 May 2006 reveals that these papers included a certified copy of U.S. patent application No. 11/130,879, filed 17 May 2005 consisting of a total of seven sheets, *i.e.*, 1 sheet containing an abstract; 3 sheets containing a description; 2 sheets of claims; and 1 sheet of drawings. The title of the patent application is identical to the title indicated in Box No. I of the Request; and, the inventor identified in Box No. II of the Request is also identical to the inventor listed in the United States patent application.

On the above facts, it is evident that the applicant intended the certified copy of the patent application to be used to satisfy the description and claim requirements of PCT Article 11(1)(iii)(d) and (e). Thus, despite the unacceptable nature of the patent copy, *i.e.*, lack of compliance with PCT Rule 11, the facts are such that it would be impossible to claim with certainty that the international application papers were deposited without a description and claims.

Accordingly, the treatment of the application papers having a defect under PCT Article 11 is withdrawn.

DECISION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is **GRANTED** to the extent that the application papers will be accorded an international filing date of 15 May 2006.

The Form PCT/RO/103 mailed 14 July 2006 is hereby **WITHDRAWN**.

This application is being returned to the RO/US for the correction of the application file and USPTO records to indicate: (1) an international filing date of **15 May 2006** claiming priority to a U.S. patent application filed 17 May 2005; (2) entering the description, claims, drawings and abstract filed 15 May 2006 for normal international processing; (3) for the preparation and mailing of a Form PCT/RO/105;

and (4) for the forwarding of a copy of this decision to the International Bureau.

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Office of PCT Legal Administration

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1211 Geneva 20
Switzerland

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27 SEP 2007

Bryan Zerhusen
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In re Application of	:	
UNIVERSITY OF CONNECTICUT	:	
PCT No.: PCT/US06/19403	:	DECISION UNDER
Int. Filing Date: 17 May 2006	:	37 CFR 1.181
Priority Date: 17 May 2005	:	
Agent's File Reference: 98121.00122PCT	:	
For: COMPOSITIONS AND METHODS FOR	:	
IMMUNOMODULATION IN AN ORGANISM	:	

Applicants' petition under 37 CFR 1.181 requesting that the copy of drawing sheets nos. 4/12-12/12 filed with the present petition be accepted in lieu of the originals purportedly filed on 17 May 2006 has been received.. No petition fee is required. The petition is **DISMISSED** as follows:

BACKGROUND

On 17 May 2006, applicants filed international application PCT/US06/19403, which claimed priority to a U.S. application filed 17 May 2005. The United States Receiving Office (RO/US) indicated on the return receipt postcard that only 3 sheets of drawings were included with the application papers.

On 08 June 2007, applicants filed the present petition forwarding a copy of drawing sheets nos. 4/12-12/12 and a copy of the return receipt postcard.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicant has not

provided sufficient evidence that drawing sheets nos. 4/12-12/12 included with the present petition were filed on 17 May 2006. The return receipt postcard contains an annotation by the RO/US that only 3 sheets of drawings were present with the application as originally filed. Therefore, the copy of the return receipt postcard filed in support of the present petition does not constitute *prima facie* evidence of receipt in the Office of drawing sheets nos. 4/12-12/12. Counsel's affadavit does not overcome the annotated postcard receipt which indicates that drawing sheets nos. 4/12-12/12 were not present with the application papers on filing. The return receipt postcard was annotated contemporaneously upon receipt by a disinterested USPTO employee. The present affidavit was filed more than a year after the mailing of the original application papers and appears to be based on practitioner's routine business practice rather than any specific recollection of the filing of the instant application. Therefore, the evidence is not sufficient to establish receipt of drawing sheets nos. 4/12-12/12 with the original application papers. Accordingly, the copies of drawing sheets nos. 4/12-12/12 filed with the present petition cannot be accepted has having been filed on 17 May 2006 with the original application papers.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED without prejudice.**

If reconsideration of the merits of this petition is desired, applicants are hereby accorded 2 (TWO) MONTHS from the mailing date of this decision to file a request for reconsideration. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BM:jf

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UNITED STATES PATENT AND TRADEMARK OFFICE

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01 MAR 2007

Terry W. KRAMER
KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

In re Application of:
WEST VIRGINIA UNIVERSITY RESEARCH CORP.
PCT No.: PCT/US2006/019494
International Filing Date: 19 May 2006
Priority Date Claimed: 20 May 2005
Atty Docket No.: WVU 3002.02
For: A MULTI-SOURCE DATA RETRIEVAL SYSTEM

DECISION ON RENEWED PETITION

This decision is issued in response to applicant's "Petition To Correct Date Of Receipt And Restore Claim Of Priority" filed on 11 December 2006, treated herein as a renewed petition. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed herein on 23 October 2006. That decision dismissed applicant's original petition to correct the international filing date due to the submission, on 14 June 2006, of six sheets of drawings which were not present in the application file.[1] The decision noted that there was no provision within the PCT for removing these drawings and establishing an earlier filing date for the application.

On 11 December 2006, applicant filed the renewed petition considered herein. The renewed petition asserts that the original application materials filed 19 May 2006 included the six pages of drawings that were subsequently re-submitted on 14 June 2006. Accordingly, applicant argues that the proper international filing date is 19 May 2006, the date on which the entire application (including the drawings) was first filed.

DISCUSSION

Applicant states that the present application was filed by hand on 19 May 2006. The present submission includes a copy of two postcard receipts received by applicant with respect to the filing of the present application. The postcards both itemize the materials filed, including "Application and Drawings (26 pages)."

[1] Because these drawings were submitted within thirty days of the filing of original application papers, their submission required that the international filing date be corrected to 14 June 2006, the date on which the drawings appeared to have been first filed (PCT Rule 20).

One of the postcards (the one applicant states was date-stamped at the time the materials were filed) bears a USPTO receipt stamp dated 19 May 2006, and it has not been annotated by USPTO personnel. The second postcard (the one applicant states was later returned by mail), also bears a USPTO receipt stamp dated 19 May 2006; however, this postcard has been annotated by USPTO personnel to indicate that no drawings were present. According to the present petition, it was this second postcard that prompted applicant to re-submit, on 14 June 2006, copies of the previously filed drawings.

Based on applicant's statements in the present petition, and the copy of the itemized return postcard that was stamped by the USPTO upon receipt of the application papers on 19 May 2006 without annotation, it is concluded that the application as originally filed included copies of the six sheets of drawings that were later re-submitted by applicant on 14 June 2006.

Based on the above, the six sheets of drawings filed 14 June 2006 will be treated as having been originally filed on 19 May 2006 with the rest of the application papers. The international filing date is therefore appropriately corrected to 19 May 2006, as requested.

It is noted that the corrected international filing date of 19 May 2006 is within twelve months of the 20 May 2005 filing date of the earliest application for which priority is claimed herein.

CONCLUSION

Applicant's petition is **GRANTED**. The international filing date for this application, including the six sheets of drawings, is hereby corrected to **19 May 2006**.

The six sheets of drawings filed on 14 June 2006 will be treated as having been originally filed on 19 May 2006.

Based on the corrected international filing date, applicant's claim of priority to a U.S. provisional application filed 20 May 2005 is no longer defective for failure to fall within twelve months of the filing date of the present application. It is noted, however, that applicant's second priority claim, to a U.S. non-provisional application filed 19 May 2006, is now defective in that it was filed on the same date as the present application and is therefore not considered a prior-filed application.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 02 August 2006, which identified 14 June 2006 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" which correctly identifies the international filing date as 19 May 2006 is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accord with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau of the WIPO

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

01 MAR 2007

Terry W. KRAMER
KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

In re Application of:
WEST VIRGINIA UNIVERSITY RESEARCH CORP.
PCT No.: PCT/US2006/019494
International Filing Date: 19 May 2006
Priority Date Claimed: 20 May 2005
Atty Docket No.: WVU 3002.02
For: A MULTI-SOURCE DATA RETRIEVAL SYSTEM

DECISION ON RENEWED PETITION

This decision is issued in response to applicant's "Petition To Correct Date Of Receipt And Restore Claim Of Priority" filed on 11 December 2006, treated herein as a renewed petition. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed herein on 23 October 2006. That decision dismissed applicant's original petition to correct the international filing date due to the submission, on 14 June 2006, of six sheets of drawings which were not present in the application file.[1] The decision noted that there was no provision within the PCT for removing these drawings and establishing an earlier filing date for the application.

On 11 December 2006, applicant filed the renewed petition considered herein. The renewed petition asserts that the original application materials filed 19 May 2006 included the six pages of drawings that were subsequently re-submitted on 14 June 2006. Accordingly, applicant argues that the proper international filing date is 19 May 2006, the date on which the entire application (including the drawings) was first filed.

DISCUSSION

Applicant states that the present application was filed by hand on 19 May 2006. The present submission includes a copy of two postcard receipts received by applicant with respect to the filing of the present application. The postcards both itemize the materials filed, including "Application and Drawings (26 pages)."

[1] Because these drawings were submitted within thirty days of the filing of original application papers, their submission required that the international filing date be corrected to 14 June 2006, the date on which the drawings appeared to have been first filed (PCT Rule 20).

One of the postcards (the one applicant states was date-stamped at the time the materials were filed) bears a USPTO receipt stamp dated 19 May 2006, and it has not been annotated by USPTO personnel. The second postcard (the one applicant states was later returned by mail), also bears a USPTO receipt stamp dated 19 May 2006; however, this postcard has been annotated by USPTO personnel to indicate that no drawings were present. According to the present petition, it was this second postcard that prompted applicant to re-submit, on 14 June 2006, copies of the previously filed drawings.

Based on applicant's statements in the present petition, and the copy of the itemized return postcard that was stamped by the USPTO upon receipt of the application papers on 19 May 2006 without annotation, it is concluded that the application as originally filed included copies of the six sheets of drawings that were later re-submitted by applicant on 14 June 2006.

Based on the above, the six sheets of drawings filed 14 June 2006 will be treated as having been originally filed on 19 May 2006 with the rest of the application papers. The international filing date is therefore appropriately corrected to 19 May 2006, as requested.

It is noted that the corrected international filing date of 19 May 2006 is within twelve months of the 20 May 2005 filing date of the earliest application for which priority is claimed herein.

CONCLUSION

Applicant's petition is **GRANTED**. The international filing date for this application, including the six sheets of drawings, is hereby corrected to **19 May 2006**.

The six sheets of drawings filed on 14 June 2006 will be treated as having been originally filed on 19 May 2006.

Based on the corrected international filing date, applicant's claim of priority to a U.S. provisional application filed 20 May 2005 is no longer defective for failure to fall within twelve months of the filing date of the present application. It is noted, however, that applicant's second priority claim, to a U.S. non-provisional application filed 19 May 2006, is now defective in that it was filed on the same date as the present application and is therefore not considered a prior-filed application.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 02 August 2006, which identified 14 June 2006 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" which correctly identifies the international filing date as 19 May 2006 is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accord with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau of the WIPO

0 8 OCT 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

BRIAN M. DINGMAN
MIRICK, O'CONNELL, DEMALLIE AND LOUGEE
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

In re Application of HOBBS	:	
PCT Application No.: PCT/US2006/019618	:	
Int. Filing Date: 18 May 2006	:	
Priority Date Claimed: 18 May 2005	:	DECISION
Attorney Docket No.: 17958-00019	:	
For: MICROSTRUCTURED OPTICAL DEVICE FOR POLARIZATION AND WAVELENGTH FILTERING	:	

This is in response to applicant's correspondence filed 28 February 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 18 May 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The papers were assigned international application number PCT/US2006/019618 and were accorded an international filing date of 18 May 2006.

On 28 February 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the published international application omitted drawing figures 31-34.

The evidence of record is sufficient to establish that 34 drawing sheets were originally filed on 18 May 2006. Specifically, the copy of the return postcard, which includes the 34 drawing sheets in its itemized contents and which bears a USPTO date stamp of 18 May 2006, serves as *prima facie* evidence that 34 drawing sheets were received by the USPTO on 18 May 2006.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A copy of this decision is being forwarded to the International Bureau along with a request to republish the international application.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

09 JAN 2007

Karl F. Milde, Jr.
Milde & Hoffberg, LLP
10 Bank Street, Suite 460
White Plains, NY 10606

In re Application of	:	
BVP HOLDING, INC.	:	
PCT No.: PCT/US06/19967	:	DECISION ON REQUEST
Int. Filing Date: 23 May 2006	:	
Priority Date: 07 June 2005	:	FOR REFUND
Attorney's Docket No.: PIANE 206 PCT-KFM	:	
For: USER-DEFINE EXERCISE APPARATUS	:	

This decision is in response to applicant's "Request for Refund" filed 08 December 2006 in the United States Patent and Trademark Office (USPTO).

A close reading of the relevant regulation finds that a refund is not appropriate. While applicant did provide the application number for the priority document at the time the international application was filed; the priority document is a provisional application. In order for the reduced search fee of $300.00 to apply, 37 C.F.R. 1.445(a)(2)(i) requires that the priority item be a prior U.S. application filed under 35 U.S.C. 111(a). As applicant's priority application was not filed under 35 U.S.C. 111(a), applicant's request for a refund is **DISMISSED**.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

16 AUG 2007

Joseph P. Kincart
8153 Middle Fork Way
Jacksonville, FL 32256

In re Application of	:	
FUTRFAB INC.	:	
PCT No.: PCT/US06/20463	:	DECISION UNDER
Int. Filing Date: 26 May 2006	:	37 CFR 1.181
Priority Date: 18 June 2005	:	
Agent's File Reference: FFII.OO01	:	
For: METHOD AND APPARATUS FOR A CLEANSPACE FABRICATOR	:	

Applicant's "Petition Under 37 CFR Section 1.181 for Publication of Drawings" which was received in the Office of PCT Legal Administration on 18 July 2007 is being treated as a petition under 37 CFR 1.181 requesting that the copy of drawing figures nos. 1/31-31/31 filed with the present petition be accepted in lieu of the originals purportedly filed on 26 May 2006 with the original application papers. No petition fee is required. The petition is **DISMISSED** as follows:

BACKGROUND

On 26 May 2006, applicant filed international application PCT/US06/20463, which claimed priority to a U.S. application filed 18 July 2005.

On 28 July 2006, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) informing applicant that drawing figures nos. 1/31-31/31 were not included with the application papers on filing.

On 29 August 2006, applicant filed a response to the Form PCT/RO/107 which included copies of drawing sheets nos. 1/31-31/31 which were purportedly filed on 26 May 2006 with the original application papers.

On 02 October 2006, the RO/US mailed a "NOTIFICATION CONCERNING LATER SUBMITTED SHEETS OR DRAWINGS" (Form PCT/RO/126) informing applicant that the

copies of the drawings filed on 29 August 2006 were refused as untimely as they were filed later than 30 days from the date of first receipt of papers.

On 18 July 2007, applicant filed the present petition forwarding a copy of drawing sheets nos. 1/31-31/31. However, applicant did not provide any evidence indicating receipt of the drawings with the application papers as originally filed.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the present petition and the application file reveals that there is no evidence that drawing sheets nos. 1/31-31/31 were present with the application papers as originally filed. Accordingly, the copies of drawing sheets nos. 1/31-31/31 filed with the present petition cannot be accepted as having been filed on 26 May 2006 at this time. Furthermore, drawing sheets nos. 1/31-31/31 may not be incorporated by reference under PCT Rule 20.6 as the present international application was filed prior to 01 April 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 to accept the copies of drawing sheets nos. 1/31-31/31 as having been filed on 26 May 2006 with the original application papers is **DISMISSED without prejudice.**

Applicants are hereby accorded TWO (2) MONTHS from the mailing date of this decision to file a response. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter directed to the attention of the PCT Legal Office.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/LS:jf

(571) 272- 3284

UNITED STATES PATENT AND TRADEMARK OFFICE

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06 FEB 2007

Stephen R. Christian
Battelle Energy Alliance, LLC
P.O. Box 1625
Idaho Falls, Idaho 83415-3899

In re Application of
Battelle Energy Alliance, LLC
PCT No.: PCT/US06/20477
Int. Filing Date: 24 May 2006
Priority Date: 13 July 2005
Atty. Docket No.: B-425
For: METHOD FOR REMOVING IMPURITIES FROM AN IMPURITY CONTAINING FLUID STREAM

DECISION ON PETITION

UNDER 37 CFR 1.181

This is a decision on applicant's "Response to Notification of Non-Inclusion of Drawings With The International Application" filed 08 January 2007 in the United States Patent and Trademark Office (USPTO). The paper is being considered as a petition under 37 CFR 1.181.

BACKGROUND

This international application was filed 24 May 2006 in the United States Receiving Office (RO/US).

On 26 December 2006, applicant was mailed an "Notification of Non-Inclusion of Drawings With The International Application" (Form PCT/RO/107) indicating that despite the reference on page four of the description, no drawings were received by RO/US.

On 08 January 2007, applicant filed a replacement drawing sheet accompanied by the present petition under 37 CFR 1.181 arguing that applicant had originally filed the sheet containing the figures on 24 May 2006.

DISCUSSION

Applicant presently argues that the drawing sheet was filed on 24 May 2006 with the original set of application papers. However, a review of the copy of the stamped return postcard in the application file shows that it has been annotated with the original "1" next to "Drawings ___ Sheets" crossed out and "0" written in and initialed "WS." (A photocopy of the return postcard is included with this decision).

While applicant has presently submitted a signed firsthand statement from the attorney who prepared the mailing stating that the drawing sheet was included, the best evidence of what

was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Applicant has not provided sufficient evidence to show that the annotation, made at the time the papers were actually received, by the first USPTO employee to open the mailing, is incorrect.

As the drawing filed 08 January 2007 was not received prior to the expiration of thirty days from the original receipt date of 24 May 2006, it will not be made part of the international application. The international filing date remains 24 May 2006.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to have the drawing filed 08 January 2007 included in the international application is **DISMISSED**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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20 JUN 2007

Richard Trecartin
DORSEY & WHITNEY LLP
Suite 1000
555 California Street
San Francisco, CA 94104-1513

In re Application of :
POLYFUEL INC. :
PCT No.: PCT/US2006/020493 :
Int. Filing Date: 24 May 2006 :
Priority Date: 24 May 2005 :
Docket No.: 186694PC/RFT : **DECISION**
For: ION CONDUCTIVE COPOLYMERS :
CONTAINING ION-CONDUCTING :
OLIGOMERS

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed in United States Receiving Office (RO/US) on 06 April 2007.

BACKGROUND

On 24 May 2006, applicant filed PCT/US2006/020493 with the RO/US. No fees were submitted at this time.

On 22 June 2006, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) indicating that a balance of $2,328.00 was required.

On 22 June 2006, applicant filed a "Request for Recording a Change of Agent Address" and a PCT Fee Calculation Sheet along with a check of $2,328.00. However, the international application ("IA") number was listed as "PCT/US2005/020493" on these papers. As such, these fees were not paid in the subject application.

On 10 August 2006, the RO/US mailed an Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133) indicating that a late payment fee of $543.00 for a total of $2,851.00 was required within one month. The notice stated that failure to pay the total amount due within the time limit given may result in the IA being considered withdrawn by the RO/US.

On 26 September 2006, the RO/US mailed a Notification that International Application Considered to be Withdrawn (Form PCT/RO/117) for failure to pay the prescribed fees.

On 06 April 2007, applicant filed the subject petition.

DISCUSSION

Applicant claims that the required international fees were timely paid in the subject application on 22 June 2006. However, the papers submitted with the payment erroneously identified the international application as PCT/US2005/020493, instead of PCT/US2006/020493. As such, the fees were located in the wrong application.

A review of both PCT/US2005/020493 and the subject application verifies that the papers intended for PCT/US2006/020493 were misidentified and placed in the wrong application. Moreover, while the international application number is incorrectly listed on the papers submitted 22 June 2006, the title, international filing date, applicant and docket number matches the subject PCT/US2006/020493. Therefore, it is clear that these papers were clearly intended for the subject IA. The papers filed 22 June 2006 included a check of $2,328.00 and a change of correspondence address.

Accordingly, a petition under 37 CFR 1.182 is required to match the mislabeled papers. The $400.00 petition fee has been charged to Deposit Account No. 50-0310 as authorized.

DECISION

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

The $2,328.00 in fees submitted on 22 June 2006 in PCT/US2005/020493 have been moved into the above-captioned international application. Therefore, the Notification that International Application Considered to be Withdrawn (Form PCT/RO/117) mailed on 26 September 2006 has been **VACATED**.

As requested, the correspondence address has been changed to:

DORSEY & WHITNEY LLP
Suite 1000
555 California Street
San Francisco, CA 94104-1513

It is noted that counsel states that he moved to MORGAN, LEWIS & BOCKIUS LLP in December 2006. However, a change of correspondence address was not submitted with the petition. Thus, the correspondence address listed above remains of record. A copy of this decision will also be forwarded to counsel's address listed on the petition as a courtesy.

This application is being returned to the RO/US for further processing and for forwarding of a copy of this decision to the International Bureau.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

Richard F. Trecartin
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126

United States Patent and Trademark Office

PCT/US06/21446 - 02 OCT 2006

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LISA B. KOLE
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-4498

02 OCT 2006

In re Application of
The Trustees Of Columbia University
In The City Of New York
PCT No.: PCT/US06/21446
Int. Filing Date: 02 June 2006
Requested Priority Date: 01 June 2005
Attorney's Docket No.: 070050.3145
For: Altered ZDHHC8 Expression As A Marker Of Increased Risk Of Schizophrenia

DECISION

ON

PETITION

This is in response to applicants' "Communication To Correct Filing Date" filed on 13 September 2006, which is being treated as a petition under 37 CFR 1.10(d).

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 08 August 2006, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 02 June 2006 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 01 June 2006, rather than 02 June 2006 as indicated on Form PCT/RO/105.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, ED762053625US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application (the original copy of which is present in the application file).

With regard to 37 CFR 1.10(d)(3), inspection of the "Addressee Copy" of the Express Mail label in controversy reveals that the "date-in" recorded thereon is ambiguous, but a USPS plug stamp of "JUN 2 2006" appears thereon. Counsel has provided a copy of the "Customer Copy" of the Express Mail mailing label, which does not show a "Date-In" but which does bear a USPS plug stamp dated "JUN 1 2006." The USPS "Track & Confirm" Web page indicates that the Express Mail parcel in question was "Enroute, June 2, 2006;" 02 June 2006 is also shown as its date of "acceptance." However, based on the totality of the evidence of record, including the conflict between 01 June 2006 USPS plug stamp on the Customer Copy and the 02 June 2006 USPS plug stamp on the Addressee Copy, it would not be appropriate to conclude that 37 CFR 1.10(d)(3) has been satisfied at this time.

DECISION

Applicants' petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

CORRECTED

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 06/21446

International Filing Date 01 JUN 2006

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 070050.3145

Box No. I TITLE OF INVENTION

ALTERED ZDHHC8 EXPRESSION AS A MARKER OF INCREASED RISK OF SCHIZOPHRENIA

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

THE TRUSTEES OF COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK
116th Street and Broadway
New York, NY 10027
US

Telephone No.

Facsimile No.

Teleprinter No.

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

GOGOS, Joseph A.
5643 Delafield Avenue
Riverdale, NY 10471
US

This person is:
☐ applicant only
☒ applicant and inventor
☐ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality: GR

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

KOLE, Lisa B.
Baker Botts L.L.P.
30 Rockefeller Plaza
New York, NY 10112-4498
US

Telephone No. (212) 408-2500

Facsimile No. (212) 408-2501

Teleprinter No.

Agent's registration No. with the Office 35,225

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

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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17 SEP 2007

LISA B. KOLE
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-4498

In re Application of	:	
The Trustees Of Columbia University	:	
In The City Of New York	:	DECISION
PCT No.: PCT/US06/21446	:	
Int. Filing Date: 02 June 2006	:	ON
Requested Priority Date: 01 June 2005	:	
Attorney's Docket No.: 070050.3145	:	PETITION
For: Altered ZDHHC8 Expression As A Marker	:	
Of Increased Risk Of Schizophrenia	:	

This is in response to applicants' "Response To Decision On Petition" filed on 19 October 2006, which is being treated as a renewed petition under 37 CFR 1.10(d).

DISCUSSION

In a Decision mailed on 02 October 2006, the constructive petition under 37 CFR 1.10(d) filed on 13 September 2006 was dismissed, without prejudice, because

> With regard to 37 CFR 1.10(d)(3), inspection of the "Addressee Copy" of the Express Mail label in controversy reveals that the "date-in" recorded thereon is ambiguous, but ***a USPS plug stamp of "JUN 2 2006" appears thereon***. Counsel has provided a copy of the "Customer Copy" of the Express Mail mailing label, which does not show a "Date-In" but which does bear a USPS plug stamp dated "JUN 1 2006." The USPS "Track & Confirm" Web page indicates that the Express Mail parcel in question was "Enroute, June 2, 2006;" 02 June 2006 is also shown as its date of "acceptance." However, based on the totality of the evidence of record, including the conflict between 01 June 2006 USPS plug stamp on the Customer Copy and the 02 June 2006 USPS plug stamp on the Addressee Copy, it would not be appropriate to conclude that 37 CFR 1.10(d)(3) has been satisfied at this time. (emphasis added)

In response, petitioner argues in part that

> no evidence has been advanced supporting a date other than 01 June 2006 as the mailing date of the above-identified application.
>
> The Decision mentions an Addressee copy of the Express Mail Receipt bearing a date of 02 June 2006. No copy of this receipt has been provided to Applicant, so that the significance of the alleged date is uncertain.

A photocopy of the relevant portion of the original Express Mail envelope, including the Addressee Copy of Express Mail label ED762053625US, is attached for petitioner's inspection. It should be noted that the "date in" recorded on this label is ambiguous in that it could be read as either "6 1 6" or "6 2 6." It also should be noted that the postage attached to the envelope bears a

date of "JUN 01 2006," but it appears that this postage (apparently from a Pitney Bowes meter) was affixed prior to the parcel being deposited into the custody of the United States Postal Service (USPS). As such, it does not demonstrate the date the parcel was actually mailed.

Petitioner refers to signatures dated 01 June 2006, but this tends to show at most that petitioner intended to transmit the correspondence on that date, not that it was actually deposited with the USPS on that date. Likewise, it is not clear whether the entry on the mail log was entered prior to the intended mailing of the parcel, or after (and within one business day of) its actual mailing. Petitioner also notes that "the authorized officer appears to have corrected the filing date," and references a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) reflecting an international filing date of "01 JUN 2006." In view of the conflicting USPS evidence present in this case, the Form PCT/RO/105 mailed on 02 October 2006 is hereby **VACATED**.

With regard to the "JUN 1 2006" plug stamp appearing on the Customer Copy, this stamp is not considered a "date in" because the term "date in" refers to the date entered into the box on the left side of the mailing label (on this particular label, the term "Date Accepted" appears rather than the traditional "Date In'). Semantic considerations aside, the significance of the USPS plug stamp has not been overlooked. However, this evidence is directly contradicted by equal evidence, the "JUN 2 2006" plug stamp appearing on/with the "Addressee Copy." Relief under 37 CFR 1.10(d) requires an affirmative showing that the notation entered by the USPS was incorrectly entered or omitted. Here, the showing is not adequate to support the requested relief because the weight of evidence thus far adduced on both sides of the issue is equal.

DECISION

Applicants' petition is **DISMISSED**, without prejudice.

The Form PCT/RO/105 mailed on 02 October 2006 is hereby **VACATED**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

enc: Copy of "Addressee Copy" of Express Mail label ED762053625US

cc: International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
SWITZERLAND

United States Patent and Trademark Office

PCT/US06/21446 . 02102006

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

LISA B. KOLE
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-4498

02 OCT 2006

In re Application of :
The Trustees Of Columbia University :
In The City Of New York : DECISION
PCT No.: PCT/US06/21446 :
Int. Filing Date: 02 June 2006 : ON
Requested Priority Date: 01 June 2005 :
Attorney's Docket No.: 070050.3145 : PETITION
For: Altered ZDHHC8 Expression As A Marker :
Of Increased Risk Of Schizophrenia :

This is in response to applicants' "Communication To Correct Filing Date" filed on 13 September 2006, which is being treated as a petition under 37 CFR 1.10(d).

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 08 August 2006, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 02 June 2006 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 01 June 2006, rather than 02 June 2006 as indicated on Form PCT/RO/105.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

PCT/US06/21446 20.09.2007

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, ED762053625US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application (the original copy of which is present in the application file).

With regard to 37 CFR 1.10(d)(3), inspection of the "Addressee Copy" of the Express Mail label in controversy reveals that the "date-in" recorded thereon is ambiguous, but a USPS plug stamp of "JUN 2 2006" appears thereon. Counsel has provided a copy of the "Customer Copy" of the Express Mail mailing label, which does not show a "Date-In" but which does bear a USPS plug stamp dated "JUN 1 2006." The USPS "Track & Confirm" Web page indicates that the Express Mail parcel in question was "Enroute, June 2, 2006;" 02 June 2006 is also shown as its date of "acceptance." However, based on the totality of the evidence of record, including the conflict between 01 June 2006 USPS plug stamp on the Customer Copy and the 02 June 2006 USPS plug stamp on the Addressee Copy, it would not be appropriate to conclude that 37 CFR 1.10(d)(3) has been satisfied at this time.

DECISION

Applicants' petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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12 MAY 2008

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

LISA B. KOLE
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-4498

In re Application of	:	
The Trustees Of Columbia University	:	
In The City Of New York	:	DECISION
PCT No.: PCT/US06/21446	:	
Int. Filing Date: 01 June 2006	:	ON
Requested Priority Date: 01 June 2005	:	
Attorney's Docket No.: 070050.3145	:	PETITION
For: Altered ZDHHC8 Expression As A Marker	:	
Of Increased Risk Of Schizophrenia	:	

This is in response to applicants' renewed petition under 37 CFR 1.10(d) filed on 03 October 2007, and on the supplemental correspondence filed on 30 April 2008.

DISCUSSION

In a Decision mailed on 17 September 2007, the petition filed on 19 October 2006 was treated under 37 CFR 1.10(d) and dismissed, without prejudice. In response, petitioner indicates *inter alia* that the "USPS plug stamp on the Customer Copy conclusively establishes a USPS deposit date of June 1, 2006 because it is the only date provided by a USPS employee at the time of deposit." Petitioner also provides an "Affidavit of Louis A. Laffitte" asserting that he "handed the Express Mail package to a USPS employee at the Grand Central Station Post Office" on 01 June 2006, and that said date is reflected in the plug stamp appearing on the Customer Copy of the Express Mail label. Based on the totality of the evidence currently of record, it would now be appropriate to grant the requested relief.

DECISION

Applicants' petition is **GRANTED**, for the reasons described *supra*.

A copy of the first page of the PCT Request (Form PCT/RO/101) bearing the corrected international filing date of **01 June 2006** is attached hereto. A corrected Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) has been prepared and will be transmitted separately.

This application is being returned to the United States receiving Office for further processing.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

enc.: Form PCT/RO/101, first page

cc: International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
SWITZERLAND

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

22 OCT 2007

HENRY I. SCHANZER
29 BROOKFALL RD
EDISON, NEW JERSEY 08817

In re Application of
PRINCETON SCIENTIFIC INSTRUMENTS, INC.
Application No. PCT/US06/021611
International Filing Date: 05 June 2006
Priority Date Claimed: 07 June 2005
Attorney Docket Number: PSI-6
For: IMPROVED MUZZLE REFERENCE SYSTEM

Decision

The above-identified international application is before the Office of PCT Legal Administration for considerations of issues arising under the PCT Treaty.

BACKGROUND

On 05 June 2006, applicant filed the above international application with the United States Receiving Office (RO/US). The applicant listed in the Transmittal Letter (Form PTO-1382) and the Request form (Form PCT/RO/101) the following items: request (Form PCT/RO/101)- 4 sheets, description -16 sheets, claims - 4 sheets, abstract -1 sheet, and drawings- 5 sheets. The Transmittal Letter also lists Check no.: 2753 and a return receipt itemized postcard.

The return receipt itemized postcard lists the following items as filed on such date: 1) IMPROVED MUZZLE REFERENCE SYSTEM REQUEST- 4 pages, 2) TRANSMITTAL FEE CALC. SHEET and 3) CHECK FOR $2,191.00. It did not list: a description, drawings, claims and an abstract as being filed with the submission and the postcard is stamped with a date of receipt of 05 June 2006.

The United States Receiving Office (RO/US) issued an "Invitation To Correct The Purported International Application" (Form PCT/RO/103) dated 14 September 2006 indicates that "the international filing date will be the date on which the corrections are received, if the date falls within the time limit indicated above. If the corrections are not received within that time limit, the application will not be treated as an international application."

The RO/US also issued a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATIONS" (Form PCT/RO/107) on 14 September 2006.

On 22 September 2006, applicant filed a "response to the PCT communication dated September 14, 2006 regarding drawings, which are claimed to be missing from the international application." The submission included 5 sheets of the drawings and applicant alleged they were filed with the application on June 5, 2006, and this should be the international filing date.

On 13 October 2006, the RO/US issued a "COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE" (Form PCT/RO/132) informing applicant that, "PCT/US06/21611 is still not complete because no response to RO/103."

On 12 December 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stating, *inter alia*, that applicant's application had been accorded an international filing date of 05 June 2006.

DISCUSSION

Pursuant MPEP 503, items listed in the return receipt itemized postcard serves as *prima facie* evidence of receipt in the USPTO on the date stamped by the USPTO.

MPEP 503 provides:

> 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 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.

Applicant's copy of the stamped postcard lists the following items:

(1) IMPROVED MUZZLE REFERENCE SYSTEM REQUEST- 4 pages,
(2) TRANSMITTAL FEE CALC. SHEET and
(3) CHECK FOR $2,191.00.

The postcard and the above items are date stamped by the USPTO as 05 June 2006. The postcard, however, did not list: a description, drawings, claims and an abstract as being filed with the submission on that date. In addition, the "new international application inventory" sheet by RO/US indicated that the Description, claims, abstract and drawings were missing on filing.

Moreover, a review of the international application's file reveals that the "Express Mail Label" package of 05 June 2006 had a weight of 2 ounces for the papers received on that date. The RO/US weighed the package without the description, claims, drawings, and abstract and it came to 2.4 ounces compared with 6.4 ounces, when the description, claims, drawings, and abstract were included in the package.

Based on the evidence in the application file, the weight of the received package, and following the instructions stipulated under MPEP 503 the filing on 05 June 2006 did not include a description, claims, drawings and an abstract.

PCT Article 14(4) states the following:

> If, after having accorded an international filing date to the international application, the receiving Office finds, within the prescribed time limit, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the said application shall be considered withdrawn and the receiving Office shall so declare.

Therefore, despite applicant not submitting a description, claims, and an abstract, the RO/US is precluded by PCT Article 14(4) from withdrawing international application PCT/US2006/021611. The filing date of 05 June 2006 will remain even though the requirements of PCT Article 11 were not met to accord a filing date.

PCT Article 17(2)(a)(ii) states the following:

(2)(a) If the International Searching Authority considers

> (ii) that the description, the claims or the drawings, fail to comply with the prescribed requirements to such an extent that a meaningful search could not be carried out,

the said Authority shall so declare and shall notify the applicant and the International Bureau that no international search report will be established.

Pursuant PCT Article 17(2), it would be inappropriate for the RO/US to issue a search report for the aforementioned international application because no description, claims, and drawings were filed on 05 June 2006.

CONCLUSION

Accordingly, the international filing date for the above international application remains 05 June 2006 even though the requirements stipulated by PCT Article 11 were not. In addition, no search report will be established for the reason stated above.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within TWO(2) MONTH from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Consideration Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

CC: The International Bureau of WIPO
34, Chemin des Colombettes
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CH-1211 Geneva 20
Switzerland

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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22 OCT 2007

HENRY I. SCHANZER
29 BROOKFALL RD
EDISON, NEW JERSEY 08817

In re Application of
PRINCETON SCIENTIFIC INSTRUMENTS, INC.
Application No. PCT/US06/021611
International Filing Date: 05 June 2006
Priority Date Claimed: 07 June 2005
Attorney Docket Number: PSI-6
For: IMPROVED MUZZLE REFERENCE SYSTEM

: Decision

The above-identified international application is before the Office of PCT Legal Administration for considerations of issues arising under the PCT Treaty.

filed 6/5/06
claiming priority of
7/06/05

BACKGROUND

On 05 June 2006, applicant filed the above international application with the United States Receiving Office (RO/US). The applicant listed in the Transmittal Letter (Form PTO-1382) and the Request form (Form PCT/RO/101) the following items: request (Form PCT/RO/101)- 4 sheets, description -16 sheets, claims - 4 sheets, abstract -1 sheet, and drawings- 5 sheets. The Transmittal Letter also lists Check no.: 2753 and a return receipt itemized postcard.

The return receipt itemized postcard lists the following items as filed on such date: 1) IMPROVED MUZZLE REFERENCE SYSTEM REQUEST- 4 pages, 2) TRANSMITTAL FEE CALC. SHEET and 3) CHECK FOR $2,191.00. It did not list: a description, drawings, claims and an abstract as being filed with the submission and the postcard is stamped with a date of receipt of 05 June 2006.

The United States Receiving Office (RO/US) issued an "Invitation To Correct The Purported International Application" (Form PCT/RO/103) dated 14 September 2006 indicates that "the international filing date will be the date on which the corrections are received, if the date falls within the time limit indicated above. If the corrections are not received within that time limit, the application will not be treated as an international application."

The RO/US also issued a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATIONS" (Form PCT/RO/107) on 14 September 2006.

On 22 September 2006, applicant filed a "response to the PCT communication dated September 14, 2006 regarding drawings, which are claimed to be missing from the international application." The submission included 5 sheets of the drawings and applicant alleged they were filed with the application on June 5, 2006, and this should be the international filing date.

On 13 October 2006, the RO/US issued a "COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE" (Form PCT/RO/132) informing applicant that, "PCT/US06/21611 is still not complete because no response to RO/103."

On 12 December 2006, the RO/US issued a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) stating, *inter alia*, that applicant's application had been accorded an international filing date of 05 June 2006.

DISCUSSION

Pursuant MPEP 503, items listed in the return receipt itemized postcard serves as *prima facie* evidence of receipt in the USPTO on the date stamped by the USPTO.

MPEP 503 provides:

> 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 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.

Applicant's copy of the stamped postcard lists the following items:

(1) IMPROVED MUZZLE REFERENCE SYSTEM REQUEST- 4 pages,
(2) TRANSMITTAL FEE CALC. SHEET and
(3) CHECK FOR $2,191.00.

The postcard and the above items are date stamped by the USPTO as 05 June 2006. The postcard, however, did not list: a description, drawings, claims and an abstract as being filed with the submission on that date. In addition, the "new international application inventory" sheet by RO/US indicated that the Description, claims, abstract and drawings were missing on filing.

Moreover, a review of the international application's file reveals that the "Express Mail Label" package of 05 June 2006 had a weight of 2 ounces for the papers received on that date. The RO/US weighed the package without the description, claims, drawings, and abstract and it came to 2.4 ounces compared with 6.4 ounces, when the description, claims, drawings, and abstract were included in the package.

Based on the evidence in the application file, the weight of the received package, and following the instructions stipulated under MPEP 503 the filing on 05 June 2006 did not include a description, claims, drawings and an abstract.

PCT Article 14(4) states the following:

> If, after having accorded an international filing date to the international application, the receiving Office finds, within the prescribed time limit, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the said application shall be considered withdrawn and the receiving Office shall so declare.

Therefore, despite applicant not submitting a description, claims, and an abstract, the RO/US is precluded by PCT Article 14(4) from withdrawing international application PCT/US2006/021611. The filing date of 05 June 2006 will remain even though the requirements of PCT Article 11 were not met to accord a filing date.

PCT Article 17(2)(a)(ii) states the following:

> (2)(a) If the International Searching Authority considers
>
> (ii) that the description, the claims or the drawings, fail to comply with the prescribed requirements to such an extent that a meaningful search could not be carried out,
>
> the said Authority shall so declare and shall notify the applicant and the International Bureau that no international search report will be established.

Pursuant PCT Article 17(2), it would be inappropriate for the RO/US to issue a search report for the aforementioned international application because no description, claims, and drawings were filed on 05 June 2006.

CONCLUSION

Accordingly, the international filing date for the above international application remains 05 June 2006 even though the requirements stipulated by PCT Article 11 were not. In addition, no search report will be established for the reason stated above.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within TWO(2) MONTH from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Consideration Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

CC: The International Bureau of WIPO
34, Chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

24 SEP 2008

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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HENRY I. SCHANZER
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EDISON, NEW JERSEY 08817

In re Application of	
PRINCETON SCIENTIFIC INSTRUMENTS, INC.	
Application No. PCT/US06/021611	
International Filing Date: 05 June 2006	RENEWED DECISION
Priority Date Claimed: 07 June 2005	
Attorney Docket Number: PSI-6	
For: IMPROVED MUZZLE REFERENCE SYSTEM	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.181," filed on 26 November 2007.

BACKGROUND

In a decision from this Office on 22 October 2007, the decision indicated that the international application filing date would be 05 June 2006 even though the following items: the specification, claims and abstract were not filed on that date. In addition, the decision also stated because these items were not filed with the Request that no international search report would be established for this application.

On 26 November 2007, petitioner filed the instant renewed petition under 37 CFR 1.181 stating that the transmitter letter and page 4 of the Request form, Box No. IX listed the contents of the application.

DISCUSSION

Petitioner argues that the transmitter letter, page 4 of the Request form, Box No. IX listed the contents of the application, and the fee calculation sheet indicated that 30 sheets were submitted as follows: 4 sheets of Request form, 16 sheets of Description, 4 sheets of Claims, 1 sheet of Abstract and 5 sheets of Drawings. Also, the Invitation to Correct did not indicate the Specification, Claims and/or Abstract were not included in the filing on 05 June 2006.

As stated in the previous decision and briefly repeated here that MPEP 503 indicates that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon. In this instance, petitioner did not list these items on the postcard rather petitioner listed them on the Request form, transmitter letter and fee calculation sheet but the USPTO does not check these papers against what is received from the applicant. Rather, the USPTO procedure as stated in MPEP 503 is to check the itemized returned postcard with the items received.

Afterwards, the USPTO makes the proper notation and mails it back to the applicant. This procedure was followed in this application, however, applicant failed to properly itemize the items filed on the postcard. This failure by applicant was to his detriment because it is only those items listed on the postcard that serves as *prima facie* evidence of receipt in the USPTO and not items listed on other papers provided at the date of filing the international application.

Moreover, the USPTO internal record of "New International Application Inventory of Unscannable or Missing Items," shows that the Description, Claims, Abstracts, and Drawings were not received at the time the Request was filed.

In addition, a review of the international application's file revealed that the "Express Mail Label" package of 05 June 2006 had a weight of 2 ounces for the papers received on that date. The RO/US weighed the package without the description, claims, drawings, and abstract and it came to 2.4 ounces compared with 6.4 ounces, when the description, claims, drawings, and abstract were included in the package.

Consequently, despite applicant not submitting a description, claims, and an abstract, the RO/US is precluded by PCT Article 14(4) from withdrawing international application PCT/US2006/021611 because the USPTO did not timely informed applicant about the missing items. As a result, the filing date of 05 June 2006 will remain even though the requirements of PCT Article 11 were not met to accord a filing date.

Nevertheless as stated in the previous decision, pursuant PCT Article 17(2), it would be inappropriate for the RO/US to issue a search report for the aforementioned international application because no description, claims, and drawings were filed on 05 June 2006 with the Request.

CONCLUSION

Accordingly, the international filing date for the above international application remains 05 June 2006 even though the requirements stipulated by PCT Article 11 were not. In addition, no search report will be established for the reason stated above and in the previous decision.

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

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within TWO (2) MONTH from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Consideration Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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14 FEB 2008

Amir H. Raubvogel
820 Lakeview Way
Redwood City, California 94062

In re Application of	:	
OMNITURE, INC.	:	
PCT No.: PCT/US06/21767	:	DECISION ON PETITION
Int. Filing Date: 05 June 2006	:	
Priority Date: 06 June 2005	:	UNDER 37 CFR 1.10(c)
Atty. Docket No.: 10572 PCT	:	
For: WEB USAGE OVERLAYS FOR THIRD-PARTY WEB PLUG-IN CONTENT	:	

This decision is in response to applicant's "REQUEST TO CORRECT INTERNATIONAL FILING DATE" filed in the United States Patent and Trademark Office (USPTO) on 19 January 2007. The request is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to earlier United States application filed 06 June 2005.

The United States Receiving Office (US/RO) accorded the application an international filing date of 06 June 2006. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 31 July 2006.

On 19 January 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 05 June 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 06 June 2006.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has

accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 31 July 2006 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 05 June 2006 and corrected first page of the PCT request form are enclosed with this decision.

Copies of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

Encl: Form RO/105 and Page one of PCT Request

PCT/US06/PCT57

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

PCT/US 06/21767

International Application No.

15 JUN 2006

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 10572 PCT

Box No. I TITLE OF INVENTION

WEB USAGE OVERLAYS FOR THIRD-PARTY WEB PLUG-IN CONTENT

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

OMNITURE, INC.
550 E. Timpanogos Circle
Orem, UT 84097
US

Telephone No.

Facsimile No.

Teleprinter No.

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

BAILEY, Michael Paul
677 E. 300 North #1
Provo, UT 84606
US

This person is:

☐ applicant only

☒ applicant and inventor

☐ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

RAUBVOGEL, Amir H.
FENWICK & WEST LLP
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801 California Street
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US

Telephone No. (650) 335-7276

Facsimile No. (650) 938-5200

Teleprinter No.

Agent's registration No. with the Office 37,070

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

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

31 OCT 2007

Steven C. Bruess
Merchant & Gould, P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of :
TELETECH HOLDINGS, INC. :
PCT No.: PCT/US06/22309 : DECISION ON PETITION
Int. Filing Date: 09 June 2006 :
Priority Date: 10 June 2005 : UNDER 37 CFR 1.10(c)
Attorney Docket No.: 40455.3WOU1 :
For: INTEGRATED CALL MANAGEMENT :

This decision is in response to applicant's "Petition to Correct Filing Date Under 37 CFR 1.10(c) " filed in the United States Patent and Trademark Office (USPTO) on 08 October 2007 to accord an international filing date of 09 June 2006. No petition fee is due.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 10 June 2005.

The United States Receiving Office (US/RO) accorded the application an international filing date of 08 June 2006. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 08 August 2006.

On 08 October 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 09 June 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 08 June 2006. In addition, applicant showed that an original petition to correct the international filing date had been filed on 05 October 2006.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has

accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. A review of the application file finds applicant's original petition to correct the international filing date filed 05 October 2006 contained therein.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 08 August 2006 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 09 June 2006 and corrected first page of the PCT request form are enclosed with this decision.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

Encl: Form RO/105 and Page one of PCT Request

30 AUG 2006

United States Patent and Trademark Office

PCT/US06/22756 . 30082006

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

PAUL F. FEHLNER
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK NY NEW YORK 10112-4498

In re Application of
Amicus Therapeutics, Inc.
PCT No.: PCT/US06/22756
Int. Filing Date: 08 June 2006
Priority Date: 08 June 2005
Attorney's Docket No.: 077376.0353
For: Imino And Amino Sugar Purification

DECISION

ON

PETITION

This is in response to applicants' "Communication To Correct Filing Date" filed on 12 July 2006, which is being treated as a petition under 37 CFR 1.10(d).

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 07 August 2006, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 09 June 2006 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 08 June 2006, rather than 09 June 2006 as indicated on Form PCT/RO/105.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was

deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, EQ374317071US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application (the original copy of which is present in the application file).

With regard to 37 CFR 1.10(d)(3), counsel has provided a copy of the Express Mail mailing label, number EQ374317071US, which does not show a "Date-In" but which does bear a USPS plug stamp dated "JUN 8 2006." However, application file also includes a copy of the Express Mail mailing label received by the USPTO, which shows a "Date-In" of "6 9." Meanwhile, the "Track & Confirm" USPS Web page corresponding to the Express Mail label number in controversy reflects "Acceptance, June 09, 2006, 12:37 am, NEW YORK, NY 10199." Based on the totality of the evidence currently of record, it is not clear that the correspondence in question was deposited with the USPS as Express Mail on 08 June 2006 (as urged by petitioner), as opposed to 09 June 2006 (as supported by the preponderance of the evidence). Accordingly, it would not be appropriate to grant the requested relief at this time.

DECISION

Applicants' petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

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

20 AUG 2007

PAUL F. FEHLNER
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK NY NEW YORK 10112-4498

In re Application of	:	
Amicus Therapeutics, Inc.	:	DECISION
PCT No.: PCT/US06/22756	:	
Int. Filing Date: 08 June 2006	:	ON
Priority Date: 08 June 2005	:	
Attorney's Docket No.: 077376.0353	:	PETITION
For: Imino And Amino Sugar Purification	:	

This is in response to applicants' "Request For Reconsideration..." filed on 12 October 2006, which is being treated as a renewed petition under 37 CFR 1.10(d).

DISCUSSION

In a Decision mailed on 30 August 2006, the petition filed on 12 July 2006 was treated under 37 CFR 1.10(d) and dismissed without prejudice because

> With regard to 37 CFR 1.10(d)(3), counsel has provided a copy of the Express Mail mailing label, number EQ374317071US, which does not show a "Date-In" but which does bear a USPS plug stamp dated "JUN 8 2006." However, application file also includes a copy of the Express Mail mailing label received by the USPTO, which shows a "Date-In" of "6 9." Meanwhile, the "Track & Confirm" USPS Web page corresponding to the Express Mail label number in controversy reflects "Acceptance, June 09, 2006, 12:37 am, NEW YORK, NY 10199." Based on the totality of the evidence currently of record, it is not clear that the correspondence in question was deposited with the USPS as Express Mail on 08 June 2006 (as urged by petitioner), as opposed to 09 June 2006 (as supported by the preponderance of the evidence). Accordingly, it would not be appropriate to grant the requested relief at this time.

Petitioner questions whether treatment under 37 CFR 1.10(d) rather than 1.10(c) was appropriate. 37 CFR 1.10(d) applies where "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." In the instant case, the "date-in" shown on the copy of the mailing label received by the USPTO was "6 9." This notation entered by the USPS differs from the date sought by petitioner. Therefore, the regulation applicable to this situation is 37 CFR 1.10(d), rather than 37 CFR 1.10(c).

Petitioner's arguments with respect to the evidence at hand have been carefully considered, but it appears that petitioner has not adequately addressed the issue of the "date-in" of "6 9" on the copy of the Express Mail mailing label actually received by the USPS with the filing of the instant international application. Petitioner references a "mail room log," but it is not clear whether the sheet included with the petition is in fact a complete copy of said log for the date in question. Moreover, it is not clear whether the entries appearing on said log were made AFTER the mailing of the correspondence as Express Mail, but within one business day of such

mailing. Should petitioner seek to rely on such a log to overcome the discrepancy in the "date-in" entered by the USPS, an acceptable statement introducing the log and based on first-hand knowledge would be required.

DECISION

Applicants' petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
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Fax: (571) 273-0459

30 MAR 2009

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30 ROCKEFELLER PLAZA
NEW YORK NY NEW YORK 10112-4498

In re Application of	:	
Amicus Therapeutics, Inc.	:	DECISION
PCT No.: PCT/US06/22756	:	
Int. Filing Date: 09 June 2006	:	ON
Claimed Priority Date: 08 June 2005	:	
Attorney's Docket No.: 077376.0353	:	PETITION
For: Imino And Amino Sugar Purification	:	

This is in response to applicants' renewed petition under 37 CFR 1.10(c) filed on 30 December 2008, which is being treated under 37 CFR 1.10(d).

DISCUSSION

In a Decision mailed on 07 January 2008, the petition filed on 05 November 2007 was treated under 37 CFR 1.10(d) and dismissed without prejudice because

> In response, petitioner argues that "The Customer Copy, not the Addressee Copy, of the Express Mail label reflects the circumstances surrounding the deposit of the package with the USPS. Thus, the Customer Copy is the only relevant evidence of the date of deposit." However, 37 CFR 1.10 nowhere states this. Rather, 37 CFR 1.10(d)(3) states in part that "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." 37 CFR 1.10(c)(3), which petitioner urges should control under the facts of this case, calls for the use of "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;" it does not limit the inquiry to the Customer Copy rather than the Addressee Copy.
>
> Petitioner further argues that "... there is no statute, rule or case law that allows the Office to disregard the most relevant evidence in the record," namely the Customer Copy showing a USPS plug stamp of 08 June 2006. However, the Office has not disregarded said plug stamp. Rather, the evidence proffered by petitioner has been weighed, but does not provide a sufficient basis to conclude that the 08 June 2006 date is correct in the face of the 09 June 2006 Date-In appearing on the Addressee Copy. Petitioner has not produced any additional evidence, such as a statement from the USPS, showing that the 08 June 2006 date on the Customer Copy should be preferred over the 09 June 2006 Date-In. Petitioner does present an "Affidavit of Jason McGrath" describing the circumstances of the mailing of the correspondence in question, but this Affidavit did not come "into being after deposit and within one business day of the deposit of the correspondence." It is recommended that any further renewed petition be accompanied by further USPS evidence (such as a statement by the USPS as to whether the 08 June 2006 date should be accepted) and/or by other evidence that "came into being after deposit and within one business day of the deposit of the

correspondence." In the absence of such evidence, it would not be appropriate to grant the requested relief at this time.

In response, and with respect to the Addressee Copy of the Express Mail mailing label, petitioner states that "Applicant has never been given the opportunity to review this second date stamp." A copy of the Addressee Copy and a copy of the Track & Confirm page are attached hereto. Inspection of the Addressee Copy reveals that it bears a "Date Accepted" of "6 9," which conflicts with USPS plug stamp dated "JUN 8 2006" appearing on the Customer Copy. Since these dates are in conflict, the relief requested by petitioner requires a showing under 37 CFR 1.10(d), not 1.10(c). As such, petitioner is requested to make such a showing, as discussed in the previous Decision and repeated above.

DECISION

Applicants' petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

enc: Addressee Copy of Express Mail Label EQ374317071US

USPS Track & Confirm page

RECIPIENT
The sender has requested notification up
Immediately upon receipt, please telepho
Name: _____
Tel. No.: ( )

PLEASE PRES

PLEASE PRESS FIRMLY

PLEASE PRESS FIRMLY

PLEASE PRESS FIRMLY

ont™ Tyvek®
ct What's Inside.™

NT Please Rush To Addressee

FOR PICKUP OR TRACKING CALL 1-800-222-181

PCT/US06/22756

EQ374317071US

EXPRESS MAIL
UNITED STATES POSTAL SERVICE

Addressee
Label 11-B, M

Post Office To Addre

USPTO MAIL CENTER
JUN 09 2006
EXPRESS MAIL LABEL DATE IN

RECEIVED
JUN 12 2006
USPTO MAIL CENTER

DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time	Employee Signature
Mo. Day	☐ AM ☐ PM	
Delivery Attempt	Time	Employee Signature
Mo. Day	☐ AM ☐ PM	
Delivery Date	Time	Employee Signature
Mo. Day	☐ AM ☐ PM	

ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code	Day of Delivery	Postage
	☐ Next ☐ 2nd ☐ 2nd Del. Day	$
Date Accepted	Scheduled Date of Delivery	Return Receipt Fee
Mo. Day Year	Month Day	$
Time Accepted ☐ AM ☐ PM	Scheduled Time of Delivery ☐ Noon ☐ 3 PM	COD Fee $ / Insurance Fee $
Flat Rate ☐ or Weight lbs. ozs.	Military ☐ 2nd Day ☐ 3rd Day	Total Postage & Fees $
	Int'l Alpha Country Code	Acceptance Emp. Initials

CUSTOMER USE ONLY

WAIVER OF SIGNATURE (Domestic Mail Only) Additional merchandise insurance is void if ... I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and ... that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY: ☐ Weekend ☐ Holiday ☐ Mailer Signature

FROM: (PLEASE PRINT) PHONE ( )

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, N.Y. 10112

TO: (PLEASE PRINT) PHONE ( )

MAIL STOP
COMMISSIONER OF PATENTS
P.O. BOX 1450
ALEXANDRIA, VA. 22313-1450

ZIP + 4 (U.S. ADDRESSES ONLY. DO NOT USE FOR FOREIGN POSTAL CODES.)

FOR PICKUP OR TRACKING

Track & Confirm

Search Results

Label/Receipt Number: **EQ37 4317 071U S**
Detailed Results:

- **Delivered, June 12, 2006, 7:25 am, ALEXANDRIA, VA 22313**
- **Arrival at Pick-Up-Point, June 10, 2006, 8:44 am, ALEXANDRIA, VA 22313**
- **Arrival at Unit, June 10, 2006, 8:00 am, DULLES, VA 20102**
- **Enroute, June 09, 2006, 1:22 am, NEW YORK, NY 10199**
- **Acceptance, June 09, 2006, 12:37 am, NEW YORK, NY 10199**

Track & Confirm

Enter Label/Receipt Num

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Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >

Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >

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3 1 AUG 2009

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NEW YORK NY NEW YORK 10112-4498

In re Application of	:	
Amicus Therapeutics, Inc.	:	DECISION
PCT No.: PCT/US2006/022756	:	
Int. Filing Date: 08 June 2006	:	ON
Priority Date: 08 June 2005	:	
Attorney's Docket No.: 077376.0353	:	PETITION
For: Imino And Amino Sugar Purification	:	

This is in response to applicants' renewed petition under 37 CFR 1.10(d) filed on 29 June 2009 and 01 July 2009.

DISCUSSION

In a Decision mailed on 30 March 2009, the petition filed on 30 December 2008 was treated under 37 CFR 1.10(d) and dismissed without prejudice because

> ... with respect to the Addressee Copy of the Express Mail mailing label, petitioner states that "Applicant has never been given the opportunity to review this second date stamp." A copy of the Addressee Copy and a copy of the Track & Confirm page are attached hereto. Inspection of the Addressee Copy reveals that it bears a "Date Accepted" of "6 9," which conflicts with USPS plug stamp dated "JUN 8 2006" appearing on the Customer Copy. Since these dates are in conflict, the relief requested by petitioner requires a showing under 37 CFR 1.10(d), not 1.10(c). As such, petitioner is requested to make such a showing, as discussed in the previous Decision and repeated above.

In response, petitioner has provided a letter from Rosalie Torres who states, in the capacity of "Manager, Consumer Affairs" of the USPS, that "I affirm that the Express Mail label #EQ374317071US (attached herewith) was deposited at the Grand Central Postal Office on June 8, 2006 as indicated by the round dated stamp on the customer copy of the Express Mail label." In view of the totality of the evidence of record, including this evidence from the USPS, it would be appropriate to conclude that the correspondence in question was deposited with the USPS as Express Mail on 08 June 2006, rather than 09 June 2006. Therefore, all of the requirements for relief under 37 CFR 1.10(d) now have been satisfied.

The Forms PCT/RO/105 and PCT/RO/110 mailed on 07 August 2006 are hereby **VACATED**.

DECISION

Applicants' petition is **GRANTED**.

This application is being returned to the United States receiving Office (RO/US) for further processing consistent with this Decision. The international filing date has been corrected to **08 June 2006**. A new Form PCT/RO/105 is being mailed separately.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

enc: corrected first page of Request (Form PCT/RO/101)

cc: Erika Senska
Amicus Therapeutics, Inc.
6 Cedarbrook Drive
Cranbury, NJ 08512

International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

PCT/US06/22887 22112006

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United States Patent and Trademark Office
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22 NOV 2006

David W. O'Bryant
Morriss O'Bryant Compagni, P.C.
136 South Main Street, Suite 700
Salt Lake City, Utah 84101

In re Application of	:	
SII MEGADIAMOND, Inc.	:	DECISION ON PETITION
PCT No.: PCT/US06/22887	:	
Int. Filing Date: 12 June 2006	:	FOR REFUND
Priority Date: 10 June 2005	:	
Atty. Docket No.: 3348.SMII.PC	:	
For: FRICTION STIRRING OF HIGH SOFTENING TEMPERATURE MATERIALS USING NEW SURFACE FEATURES ON A TOOL	:	

The petition filed 13 October 2006 in the above-captioned application requesting a refund of the $543.00 late fee paid on 08 September 2006 is hereby **GRANTED** as follows:

A review of USPTO records for the present international application finds that applicant provided payment of the prescribed fees for this application on 11 July 2006. As such, no late fee payment was required. As requested $543.00 will be refunded to applicant's credit card as this was the method of payment on 08 September 2006.

This application is being returned to the United States Receiving Office (RO/US) for continued processing.

Derek A. Putonen
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UNITED STATES PATENT AND TRADEMARK OFFICE

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03 JAN 2008

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Pasadena, CA 91109-7068

In re Application of
VARCO I/P, INC.
PCT No.: PCT/US06/22937
Int. Filing Date: 13 June 2006
Priority Date: 24 June 2005
Atty. Docket No.: 54341P/V186
For: PIPE RUNNING TOOL HAVING INTERNAL GRIPPER

DECISION ON PETITION

UNDER 37 CFR 1.10

This decision is in response to applicant's "Request For Correction of Filing Date" filed 29 September 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10 (c). No petition fee is required.

BACKGROUND

Applicant filed a PCT Request with the United States Receiving Office (RO/US). The Request claimed priority to an application filed in the United States on 24 June 2005. The RO/US accorded the application an international filing date of 13 June 2006.

On 29 September 2006, applicant filed the present petition seeking an international filing date of 12 June 2006.

DISCUSSION

37 CFR 1.10(c) states that an applicant filing correspondence under 37 CFR 1.10 which is received by the USPTO who can show that there is a discrepancy between the "Date-in" date on the Express Mail label and the date accorded by the USPTO may petition the Director to accord a filing date as of the "Date-in" on the mailing label 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 (United States Postal Service) 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.

Applicant has satisfied items 1 and 2 above.

Regarding item 3, applicant has not included a copy of the required Express Mail mailing label. Absent a copy of the Express Mail mailing label it is not possible to determine what date the RO/US should have accorded. (See 37 CFR 1.10(a) showing that the USPTO will grant the date recorded by the USPS as the "date-in" date.)

Applicant is also directed to 37 CFR 1.10(d) which details the procedures for applicants 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. As discussed in that section such applicants 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.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.10(c) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
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Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

29 JAN 2008

John W. Peck
Christie, Parker & Hale, Llp
P.O. Box 7068
Pasadena, California 91109-7068

In re Application of	:	
VARCO I/P, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/22937	:	
Int. Filing Date: 12 June 2006	:	PETITION UNDER
Priority Date: 24 June 2005	:	
Atty. Docket No.: 54341P/V186	:	37 CFR 1.10(c)
For: PIPE RUNNING TOOL HAVING INTERNAL GRIPPER	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.10" filed 14 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 03 January 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10. Applicant was afforded two months to file any request for reconsideration.

On 14 January 2008, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 03 January 2008, in order to be granted, a petition under 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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant previously satisfied items 1 and 2. Applicant has present satisfied the last remaining item. Specifically, applicant has currently provided a copy of the Express Mail label, showing a "Date-In' date of 12 June 2006. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) mailed 07 August 2006 indicating an international filing date of 13 June 2006 is hereby **VACATED**.

A new "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating an international filing date of **12 June 2006** and corrected sheet one of the PCT Request accompany this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

cc:

International Bureau
34, chemin des Colombettes
CH-1211 Geneva 20, Switzerland

PCT/US06/22937

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

PCT/US 06/22937
International Application No.

12 JUN 2006
International Filing Date

PCT INTERNATIONAL APPLICATION
RO/US
Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 54341P/V186

Box No. I TITLE OF INVENTION
PIPE RUNNING TOOL HAVING INTERNAL GRIPPER

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*
VARCO I/P, INC.
743 North Eckhoff Street
Orange, California 92868
United States of America

Telephone No.
714.978.1900

Facsimile No.

Teleprinter No.

Applicant's registration No with the Office

State *(that is, country)* of nationality:
US

State *(that is, country)* of residence:
US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*
JUHASZ, Daniel
5351 Duncannon Avenue
Westminster, California 95683
United States of America

This person is:
☐ applicant only
☒ applicant and inventor
☐ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality:
US

State *(that is, country)* of residence:
US

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address. *(Family name followed by given name; for a legal entity, full official designation The address must include postal code and name of country)*
PECK, John W.
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, California 91109-7068
United States of America

Telephone No.
626.795.9900

Facsimile No.
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Teleprinter No.

Agent's registration No. with the Office
44,284

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

28 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
US06/23479 28 JUN 2006

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

ROBERT BERLINER
BERLINER & ASSOCIATES
555 WEST FIFTH STREET
31ST FLOOR
LOS ANGELES CA 90013

In re Application of	:	DECISION ON
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	:	
PCT No.: PCT/US06/23479	:	PETITION
Int. Filing Date: 19 June 2006	:	
Priority Date: 15 June 2005	:	
Attorney's Docket No.: 5555-635PC	:	
For: BISPECIFIC SINGLE CHAIN FV ANTIBODY MOLECULES AND METHODS OF USE THEREOF	:	

This decision is in response to applicant's "PETITION UNDER RULE 1.183" filed 13 October 2006. The petition fee of $400 has been charged to Deposit Account 50-3881.

BACKGROUND

On 19 June 2006, the United States Receiving Office (RO/US) received a Request, description, claims, abstract, drawings, and Sequence Listing. These application papers were accorded the above-identified international application number.

On 11 July 2006, applicant filed a "REQUEST TO CORRECT FILING DATE" indicating that the postcard receipt for the above-identified application indicated a receipt date of 19 June 2006 and requesting that this date be changed to 14 June 2006.

On 22 August 2006, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) dismissing applicant's request to correct filing date. Specifically, it was noted that the application papers were submitted to the RO/US via "Priority Mail" rather than "Express Mail".

On 20 September 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 19 June 2006.

On 20 September 2006, the RO/US also mailed an INVITATION TO CORRECT

PRIORITY CLAIM (Form PCT/RO/110) indicating that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 13 October 2006, applicant submitted that instant "PETITION UNDER RULE 1.183" which was accompanied by, *inter alia*, a declaration of Linda J. Werk and a letter from Brenda Coronado of the USPS.

DISCUSSION

37 CFR 1.183

The petition states that "a remedy under 37 CFR 1.183 is appropriate." 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).

However, it is not clear which rule or rules petitioner is requesting to be waived. The petition refers to 37 CFR 1.10 but it is not clear that petitioner is requesting that it be waived.

37 CFR 1.10(a) states:

> (1) 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.
> (2) 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).

Perhaps, petitioner is requesting that 37 CFR 1.10(a)(1) be waived so that the correspondence received by the RO/US on 19 June 2006 delivered via "Priority Mail" be considered as having been filed by "Express Mail".

37 CFR 1.10(b) states:

> (b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the

> "Express Mail" mailing label with the "date-in" clearly marked. *Persons dealing indirectly with the employees of the USPS* (such as by deposit in an "Express Mail" drop box) *do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.* The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(emphasis added) MPEP § 513, item II, states in part:

> 37 CFR 1.10(b) further provides that correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. On petition, the failure to obtain an "Express Mail" receipt with the "date-in" clearly marked may be considered an omission that could have been avoided by the exercise of due care, as discussed below. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, *but do so at their own risk.*

(emphasis added) Here, applicant did not deal directly with employees of the USPS for deposit of the correspondence. Additionally, applicant did not either place proper postage on the correspondence himself (e.g, using an "Express Mail Corporate Acct. No.") or deal directly with an employee of the USPS for determining the proper postage. Rather, applicant placed the correspondence in the hands of a third party (Regency Business Center) both for proper postage and for deposit with the USPS (declaration of Linda J. Werk).

> MPEP § 513, item III, states in part:
>
> . . . A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.

> 1996); *Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); . . . .

Here, applicant's failure to heed the warnings set forth both in 37 CFR 1.10(b) and MPEP § 513, item II, is not considered an extraordinary situation that would warrant waiver of a rule.

Applicant does provide a copy of an "Express Mail Log" for the period from 15 May 2006 to 06 July 2006 (Exhibit C). MPEP § 513, item II, states in part:

> Parties who do use drop boxes can protect themselves from uncertainty due to illegible mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d) * (e)>, or (g)<. Evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The copy of the "Express Mail Log" provided by applicant indicates only a date, an Express Mail label number, the intended recipient, and what appears to be the initials of the person making the entry in the log. This log is not sufficient for a number of reasons. First, it appears that the log was made before rather than *after* deposit with the USPS (second paragraph of declaration of Linda J. Werk). Second, the log only includes the Express Mail mailing label number. No other identifying information such as the application number or the attorney docket number is provided. Third, it does not appear to include the *depositor's* initials. Fourth, it does not include the date and time of entry in the log to establish whether the entry was made before or after deposit.

The letter from Brenda Coronado from the USPS has been considered. As noted above, it is applicant's responsibility to ensure that the correspondence is deposited directly with the USPS. However, even assuming for the sake of argument that it is not applicant's responsibility to ensure that the correspondence is deposited directly with the USPS, the letter would not be sufficient. The letter states that it is the standard operating procedure for Express Mail which has less than the required postage to "advance the Express Mail Article to its destination . . . and bill

the Sender the . . . Postage Due." However, it is not clear how the USPS would bill the sender. First, it is not clear who should be billed in the instant case. It is not clear whether Berliner & Associates is considered the sender or Regency Business Center is considered the sender. Second, there is no "Express Mail Corporate Acct. No." to which the postage may be billed.

PCT Article 48(2)

Petitioner also urges that "the liberal basis for excuse set forth in PCT Article 48(2)(b) can be applied." PCT Article 48(2)(b) states

> (a) Any Contracting State shall, as far as that State is concerned, excuse, for reasons admitted under its national law, any delay in meeting any time limit.
> (b) Any Contracting State may, as far as that State is concerned, excuse, for reasons other than those referred to in subparagraph (a), any delay in meeting any time limit.

First, PCT Article 48(2)(b) does not apply because filing an international application more than twelve months after the priority date is not a "delay in meeting any time limit." Filing the application later than twelve months from the priority date is not a violation of any time limit set forth in the PCT as would be the case, for example, with a failure to pay fees or a failure to correct a priority claim within the time period set forth in PCT Rule 26bis. Indeed, applicant is entitled to file an application later than twelve months from the priority date. Such a filing will result in the receiving Office considering the priority claim not to have been made, but the application is still a proper international application and would not be withdrawn. Moreover, even assuming that the United States Receiving Office (RO/US) were able to excuse the delay, that excuse would be limited to the United States and would have no effect in any of the other Contracting States under the PCT.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being returned to the RO/US for processing in accordance with this decision, including according the application papers an international filing date of **19 June 2006**.

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

0 8 JAN 2007

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In re Application of	:	DECISION ON
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	:	
PCT No.: PCT/US06/23479	:	PETITION
Int. Filing Date: 19 June 2006	:	
Priority Date: 15 June 2005	:	
Attorney's Docket No.: 5555-635PC	:	
For: BISPECIFIC SINGLE CHAIN FV ANTIBODY MOLECULES AND METHODS OF USE THEREOF	:	

This decision is in response to applicant's submission filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 22 November 2006, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 June 2006, the United States Receiving Office (RO/US) received a Request, description, claims, abstract, drawings, and Sequence Listing. These application papers were accorded the above-identified international application number.

On 11 July 2006, applicant filed a "REQUEST TO CORRECT FILING DATE" indicating that the postcard receipt for the above-identified application indicated a receipt date of 19 June 2006 and requesting that this date be changed to 14 June 2006.

On 22 August 2006, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) dismissing applicant's request to correct filing date. Specifically, it was noted that the application papers were submitted to the RO/US via "Priority Mail" rather than "Express Mail".

On 20 September 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 19 June 2006.

On 20 September 2006, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) indicating that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 13 October 2006, applicant submitted a "PETITION UNDER RULE 1.183" which was accompanied by, *inter alia*, a declaration of Linda J. Werk and a letter from Brenda Coronado of the USPS.

On 22 November 2006, applicant submitted the instant submission which includes a date-stamped postcard receipt and a copy of the submission filed 13 October 2006. The submission has been treated as a petition under 37 CFR 1.181 requesting that the copy of the submission filed 22 November 2006 be accepted as having been originally received in the USPTO on 13 October 2006.

On 28 November 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.183 without prejudice.

DISCUSSION

The submission originally filed13 October 2006 is in the application file. The 22 November 2006 submission was not matched with the application file until after the decision of 28 November 2006. The petition under 37 CFR 1.181 filed 22 November 2006 is moot.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** as **MOOT** for the reasons set forth above.

The application is being returned to the RO/US for processing in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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28 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
US06/23479 28 JUN 2006

Commissioner for Patents
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In re Application of	:	DECISION ON
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37 CFR 1.10(b) states:

> (b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the

> "Express Mail" mailing label with the "date-in" clearly marked. *Persons dealing indirectly with the employees of the USPS* (such as by deposit in an "Express Mail" drop box) *do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.* The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(emphasis added) MPEP § 513, item II, states in part:

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(emphasis added) Here, applicant did not deal directly with employees of the USPS for deposit of the correspondence. Additionally, applicant did not either place proper postage on the correspondence himself (e.g, using an "Express Mail Corporate Acct. No.") or deal directly with an employee of the USPS for determining the proper postage. Rather, applicant placed the correspondence in the hands of a third party (Regency Business Center) both for proper postage and for deposit with the USPS (declaration of Linda J. Werk).

> MPEP § 513, item III, states in part:
>
> . . . A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.

> 1996); *Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); . . . .

Here, applicant's failure to heed the warnings set forth both in 37 CFR 1.10(b) and MPEP § 513, item II, is not considered an extraordinary situation that would warrant waiver of a rule.

Applicant does provide a copy of an "Express Mail Log" for the period from 15 May 2006 to 06 July 2006 (Exhibit C). MPEP § 513, item II, states in part:

> Parties who do use drop boxes can protect themselves from uncertainty due to illegible mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d) * (e)>, or (g)<. Evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The copy of the "Express Mail Log" provided by applicant indicates only a date, an Express Mail label number, the intended recipient, and what appears to be the initials of the person making the entry in the log. This log is not sufficient for a number of reasons. First, it appears that the log was made before rather than *after* deposit with the USPS (second paragraph of declaration of Linda J. Werk). Second, the log only includes the Express Mail mailing label number. No other identifying information such as the application number or the attorney docket number is provided. Third, it does not appear to include the *depositor's* initials. Fourth, it does not include the date and time of entry in the log to establish whether the entry was made before or after deposit.

The letter from Brenda Coronado from the USPS has been considered. As noted above, it is applicant's responsibility to ensure that the correspondence is deposited directly with the USPS. However, even assuming for the sake of argument that it is not applicant's responsibility to ensure that the correspondence is deposited directly with the USPS, the letter would not be sufficient. The letter states that it is the standard operating procedure for Express Mail which has less than the required postage to "advance the Express Mail Article to its destination . . . and bill

the Sender the . . . Postage Due." However, it is not clear how the USPS would bill the sender. First, it is not clear who should be billed in the instant case. It is not clear whether Berliner & Associates is considered the sender or Regency Business Center is considered the sender. Second, there is no "Express Mail Corporate Acct. No." to which the postage may be billed.

PCT Article 48(2)

Petitioner also urges that "the liberal basis for excuse set forth in PCT Article 48(2)(b) can be applied." PCT Article 48(2)(b) states

> (a) Any Contracting State shall, as far as that State is concerned, excuse, for reasons admitted under its national law, any delay in meeting any time limit.
> (b) Any Contracting State may, as far as that State is concerned, excuse, for reasons other than those referred to in subparagraph (a), any delay in meeting any time limit.

First, PCT Article 48(2)(b) does not apply because filing an international application more than twelve months after the priority date is not a "delay in meeting any time limit." Filing the application later than twelve months from the priority date is not a violation of any time limit set forth in the PCT as would be the case, for example, with a failure to pay fees or a failure to correct a priority claim within the time period set forth in PCT Rule 26bis. Indeed, applicant is entitled to file an application later than twelve months from the priority date. Such a filing will result in the receiving Office considering the priority claim not to have been made, but the application is still a proper international application and would not be withdrawn. Moreover, even assuming that the United States Receiving Office (RO/US) were able to excuse the delay, that excuse would be limited to the United States and would have no effect in any of the other Contracting States under the PCT.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being returned to the RO/US for processing in accordance with this decision, including according the application papers an international filing date of **19 June 2006**.

Daniel Stemmer
Legal Examiner

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Office of Patent Cooperation Treaty
Legal Administration
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17 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	DECISION ON
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	:	
PCT No.: PCT/US06/23479	:	PETITION
Int. Filing Date: 19 June 2006	:	
Priority Date: 15 June 2005	:	
Attorney's Docket No.: 5555-635PC	:	
For: BISPECIFIC SINGLE CHAIN FV ANTIBODY MOLECULES AND METHODS OF USE THEREOF	:	

This decision is in response to applicant's "RENEWED PETITION UNDER RULE 1.183" filed 26 January 2007.

BACKGROUND

On 19 June 2006, the United States Receiving Office (RO/US) received a Request, description, claims, abstract, drawings, and Sequence Listing. These application papers were accorded the above-identified international application number.

On 11 July 2006, applicant filed a "REQUEST TO CORRECT FILING DATE" indicating that the postcard receipt for the above-identified application indicated a receipt date of 19 June 2006 and requesting that this date be changed to 14 June 2006.

On 22 August 2006, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) dismissing applicant's request to correct filing date. Specifically, it was noted that the application papers were submitted to the RO/US via "Priority Mail" rather than "Express Mail".

On 20 September 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 19 June 2006.

On 20 September 2006, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) indicating that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 13 October 2006, applicant submitted a "PETITION UNDER RULE 1.183" which was accompanied by, *inter alia*, a declaration of Linda J. Werk and a letter from Brenda Coronado of the USPS dated 11 October 2006.

On 28 November 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.183 without prejudice.

On 26 January 2007, applicant submitted the instant "RENEWED PETITION UNDER RULE 1.183" which was accompanied by, *inter alia*, a letter from Brenda Coronado of the USPS dated 05 December 2006.

DISCUSSION

37 CFR 1.10(a) and (d) state;

> (a)
> (1) 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.
> (2) 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).
>
> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The renewed petition states that "waiver is requested for the requirement that the correspondence at issue be delivered by the Express Mail post service." (Emphasis in original.)

The indication in the letter of Brenda Coronado dated 05 December 2006 that Standard

Operating Procedure on Short Paid Express Mail is to advance the Express Mail article to its destination and bill the sender the postage due, the sender in this case being Berliner & Associates, is acknowledged.

Regarding 37 CFR 1.10(d), applicant has satisfied 37 CFR 1.10(d)(1) and (d)(2). Applicant has also satisfied 37 CFR 1.10(d)(3). The letter from Brenda Coronado dated 11 October 2006 is sufficient to establish that the correspondence was deposited with the USPS in the "Express Mail Post Office to Addressee" Service on 14 June 2006. The requirement that the correspondence at issue be delivered to the USPTO by the "Express Mail Post Office to Addressee" Service is hereby waived.

Accordingly, it is appropriate, on the present record, to accord the international application an international filing date of 14 June 2006.

A new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the above-identified international application an international filing date of 14 June 2006 is enclosed.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.183 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 20 September 2006 is hereby **VACATED**.

The INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) mailed 20 September 2006 is hereby **VACATED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being returned to the RO/US for processing in accordance with this decision including according the application papers an international filing date of **14 June 2006**.

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Enclosure:
NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105)

CC: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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19 JAN 2007

WOODCOCK WASHBURN LLP
2929 ARCH STREET
SUITE 1200
PHILADELPHIA, PA 19104-2891

In re Application of
MEDIAPOD LLC
PCT No.: PCT/US06/24042
Int. Filing Date: 21 June 2006
Priority Date: 21 June 2005
Attorney Docket No.: IVMP-0030
For: SYSTEM AND METHOD FOR INCREASING EFFICIENCY AND QUALITY FOR EXPOSING IMAGES ON CELLULOID OR OTHER PHOTO SENSITIVE MATERIAL

DECISION ON PETITION
UNDER 37 CFR 1.10

This decision is issued in response to applicant's "Combined Response to Invitation to Correct Defects and Request for Correction of Filing Date" filed 13 December 2006 to accord an international filing date of 21 June 2006 to the above-identified international application.

BACKGROUND

The United States Receiving Office accorded an international filing date of 22 June 2006 to the above-identified international application.

On 13 December 2006, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EV605031743US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" and shows a USPS postal stamp dated June 21, 2006.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 21 June 2006. Specifically, the "Express Mail" label number ("#EV605031743US") appears on "Express Mail" certificate on the Transmittal Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 21 June 2006.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 21 June 2006. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 21 June 2006 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 21 June 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 21 June 2006; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
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John H. Lamming
E. I. du Pont de Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19805

In re Application of	:	
E. I. DU PONT DE NEMOURS AND COMPANY	:	
PCT Application No.: PCT/US2006/025128	:	
Int. Filing Date: 28 June 2006	:	DECISION
Priority Date Claimed: 28 June 2005	:	
Attorney Docket No.: UC0512PCT	:	
For: HIGH WORK FUNCTION TRANSPARENT CONDUCTORS	:	

This is in response to applicant's "Request for Corrected Filing Date PCT Rule 82ter" filed 03 October 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 June 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

18 August 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 03 October 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file confirms that the international application papers were filed on 28 June 2006 and were accorded a receipt date of 28 June 2006 as indicated in Form PCT/RO/105 mailed 18 August 2006.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED AS MOOT.

A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

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PCT Legal Examiner
PCT Legal Office

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0 6 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN H. LAMMING
E. I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
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WILMINGTON DE 19805

In re Application of	:	
E. I. DU PONT DE NEMOURS AND COMPANY	:	DECISION
PCT No.: PCT/US2006/025129	:	
Int. Filing Date: 28 June 2006	:	
Priority Date: 28 June 2005	:	
Attorney's Docket No.: UC0513PCT	:	
For: BILAYER ANODE	:	

This decision is in response to applicant's submission filed on 03 October 2007, which has properly been treated as a petition under 37 CFR 1.10(c).

BACKGROUND

On 16 August 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating an international filing date of 26 June 2006 and a priority date of 28 June 2005.

On 03 October 2007, applicant submitted the instant petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of a postcard receipt date-stamped 26 June 2006 by the USPTO and a copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label #EV717456796US.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail Post Office to Addressee" mailing on 28 June 2006. Specifically, the "Express Mail" label number ("EV717456796US") appears on the transmittal letter, which also refers to, *inter alia*, a new international application and lists the above-identified attorney docket number and title. Although the "Date In" on the Customer Copy of the Express Mail mailing label is difficult to ascertain, an e-mail from the "U.S. Postal Service Track & Confirm email Restoration - EV71 7456 796U S" (copy enclosed) indicates that the correspondence having this Express Mail mailing label number was accepted by the USPS on 28 June 2006.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(c) requesting that the application papers be accorded an international filing date of 28 June 2006 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 16 August 2006 is hereby **VACATED**.

The application is being returned to the RO/US for continued processing.

/Daniel Stemmer/

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Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 4
copy of an e-mail from the "U.S. Postal Service Track & Confirm email Restoration - EV71 7456 796U S"

United States Patent and Trademark Office

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JOHN H. LAMMING
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LEGAL PATENT RECORDS CENTER
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WILMINGTON, DE 19805

In re Application of	:	
E.I. Du PONT DE NEMOURS AND COMPANY	:	DECISION ON
PCT No.: PCT/US06/25136	:	
Int. Filing Date: 28 June 2006	:	PETITION UNDER
Priority Date: 28 June 2005	:	
Attorney's Docket No.: UC0515PCT	:	37 CFR 1.10
For: Buffer Compositions	:	

This is in response to the "Request For Corrected Filing Date..." filed on 03 October 2007, which is being treated under 37 CFR 1.10(c).

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 16 August 2006, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) was mailed, showing an international filing date of 26 June 2006.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 28 June 2006, rather than the 26 June 2006 date it was accorded.

Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with **37 CFR 1.10(c)(1)**.

Regarding **37 CFR 1.10(c)(2),** review of the correspondence in question reveals that an Express Mail mailing label number, EV717456796US, was recorded on the Transmittal Letter accompanying and itemizing the filing of the instant international application; as such, 37 CFR 1.10(c)(2) has been satisfied.

With regard to **37 CFR 1.10(c)(3)**, counsel has provided a photocopy of the "Customer Copy" of Express Mail mailing label number EV717456796US, which shows a "Date-In" of "6 28 06." Petitioner has also provided a copy of a "Pickup Service Statement" referring to Express Mail parcel "-796US" and reflecting a "Date & Time of Pickup" of "6-28-06." Based on the evidence of record, it would be appropriate to conclude that the Express Mail parcel in question was deposited with the USPS on 28 June 2006. As such, it would be appropriate to grant the

requested relief. Accordingly, the Form PCT/RO/105 mailed on 16 August 2006 is hereby **VACATED**.

DECISION

The petition is **GRANTED**, for the reasons described *supra*.

A new Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) is being issued, and a copy of the first page of the PCT Request (Form PCT/RO/101) bearing the correct international filing date of **28 June 2006** is attached hereto.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

enc.: Form PCT/RO/101, first page

05 FEB 2007

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In re Application of
PHILADELPHIA HEALTH & EDUCATION CORP.
PCT No.: PCT/US06/25433
Int. Filing Date: 30 June 2006
Priority Date: 30 June 2005
Atty. Docket No.: D2027 20065
For: SMALL MOLECULE INHIBITORS AGAINST WEST NILE VIRUS REPLICATION

: DECISION ON PETITION
: UNDER 37 CFR 1.10(c)

This is a decision on applicant's "Change Under Rule 92bis", treated as a Request to Correct Filing Date under 37 CFR 1.10, filed in the United States Patent and Trademark Office (USPTO) on 27 November 2006. Applicant, in effect, requests that the USPTO accord a filing date of 30 June 2006 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/25433, which claimed a priority date of 30 June 2005.

On 12 September 2006, a Notification of the International Application Number and of the International Filing Date was mailed to applicant indicating that the International filing date of the application is 29 June 2006.

On 27 November 2006, applicant filed the present request, which included a copy of the Customer Receipt of the "Express Mail" mailing label Express Mail # EV722523140US. The mailing label was addressed to the "Mail Stop PCT, Commissioner for Patents, PO BOX 1450, Alexandria, VA 22313-1450". The "Date In" is "6/30/06" and the Customer Receipt bears a USPS barrel-stamp "JUN 30 2006".

DISCUSSION

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 Commissioner to accord the

correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition contains a copy of the "Express Mail" Mailing Label # EV722523140US, which bears a USPS barrel stamp date of "JUN 30 2006". The original Express Mail envelope bearing a Date-In of "6/30/06" is contained in the application file. The transmittal letter having "Express Mail" mailing label Express Mail # EV722523140US thereon is contained in the application file. The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 30 June 2006. Specifically, the "Express Mail" label number ("EV722523140US") appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application papers were deposited on 30 June 2006.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of **30 June 2006** is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 12 September 2006 is hereby **VACATED**. A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 30 June 2006.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

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cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

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12 DEC 2006

David Jacobs
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In re Application of
MENTAL IMAGES, INC.
PCT No.: PCT/US06/25827
Int. Filing Date: 30 June 2006
Priority Date: 01 July 2005
Atty. Docket No.: MENT-105-PCT
For: COMPUTER GRAPHICS SHADER SYSTEMS AND METHODS

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Accept Complete Set of Drawings, Addressing Disagreement With "Notification...Ex Officio" filed 11 September 2006 in the United States Patent and Trademark Office (USPTO). The petition is being considered under 37 CFR 1.181.

BACKGROUND

This international application was filed 30 June 2006 in the United States Receiving Office (RO/US).

On 26 August 2006, applicant was mailed an "Invitation To Correct Defects In The International Application" (Form PCT/RO/106) and "Notification Regarding Certain Corrections Made Ex Officio" (Form PCT/RO/146) indicating that 38 sheets of drawings had been received instead of the 43 listed on the PCT Request.

On 11 September 2006, applicant filed 43 sheets of replacement drawings accompanied by the present petition under 37 CFR 1.181 arguing that applicant had originally filed 43 sheets of drawings..

DISCUSSION

Applicant presently argues that 43 sheets of drawings, containing figures 1-78, were filed on 30 June 2006. However, a review of the stamped return postcard shows that it has been annotated with the original "(43 sheets)" crossed out and "38" written in and initialed. While applicant has presently submitted an affidavit from the attorney who prepared the mailing stating that 43 sheets of drawings were included, the best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See

MPEP 503. Applicant has not provided sufficient evidence to show that the annotation, made at the time the papers were actually received, is incorrect.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to have the additional drawings comprising figures 63-68 filed 11 September 2006 included in the international application is **DISMISSED**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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12 DEC 2006

David Jacobs
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In re Application of
MENTAL IMAGES, INC.
PCT No.: PCT/US06/25827
Int. Filing Date: 30 June 2006
Priority Date: 01 July 2005
Atty. Docket No.: MENT-105-PCT
For: COMPUTER GRAPHICS SHADER SYSTEMS AND METHODS

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Accept Complete Set of Drawings, Addressing Disagreement With "Notification...Ex Officio" filed 11 September 2006 in the United States Patent and Trademark Office (USPTO). The petition is being considered under 37 CFR 1.181.

BACKGROUND

This international application was filed 30 June 2006 in the United States Receiving Office (RO/US).

On 26 August 2006, applicant was mailed an "Invitation To Correct Defects In The International Application" (Form PCT/RO/106) and "Notification Regarding Certain Corrections Made Ex Officio" (Form PCT/RO/146) indicating that 38 sheets of drawings had been received instead of the 43 listed on the PCT Request.

On 11 September 2006, applicant filed 43 sheets of replacement drawings accompanied by the present petition under 37 CFR 1.181 arguing that applicant had originally filed 43 sheets of drawings..

DISCUSSION

Applicant presently argues that 43 sheets of drawings, containing figures 1-78, were filed on 30 June 2006. However, a review of the stamped return postcard shows that it has been annotated with the original "(43 sheets)" crossed out and "38" written in and initialed. While applicant has presently submitted an affidavit from the attorney who prepared the mailing stating that 43 sheets of drawings were included, the best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See

MPEP 503. Applicant has not provided sufficient evidence to show that the annotation, made at the time the papers were actually received, is incorrect.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to have the additional drawings comprising figures 63-68 filed 11 September 2006 included in the international application is **DISMISSED**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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18 MAY 2007

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In re Application of	:	
MENTAL IMAGES, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/25827	:	
Int. Filing Date: 30 June 2006	:	PETITION UNDER
Priority Date: 01 July 2005	:	
Attorney's Docket No.: MENT-105-PCT	:	37 CFR 1.181 AND
For: COMPUTER GRAPHICS SHADER SYSTEMS	:	
AND METHODS	:	37 CFR 1.183

This is a decision on applicant's "REQUEST FOR RECONSIDERATION/REVIEW BY THE COMMISSIONER, OR IN THE ALTERNATIVE, PETITION FOR RELIEF UNDER 37 C.F.R. 1.183" filed 14 February 2007 in the United States Patent and Trademark Office (USPTO). As authorized, the $400.00 petition fee will be charged to deposit account number 50-3243.

BACKGROUND

On 23 January 2007, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 14 February 2007, applicant filed the present renewed petition under 37 CFR 1.181 accompanied by a request in the alternative for relief pursuant to 37 CFR 1.183.

DISCUSSION

I. RENEWED PETITION UNDER 37 CFR 1.181

As detailed in the previous decisions, the subject international application was filed on 30 June 2006. Applicant's return receipt postcard was annotated by the Office to indicate that while the postcard listed 43 sheets of drawings, only 38 sheets of drawings were received. Specifically, the original number "(43 sheets)" was crossed out, the number 38 was written in and initialed "SK." As shown in the prior two decisions, use of a return receipt postcard and annotation by the USPTO to indicate what papers are actually received in discussed in the Manual of Patent Examining Procedure, section 503 which states, in part:

> 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 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.

Applicant concurs that MPEP section 503 controls, however, applicant contends that the best evidence of what was received by the Office is the itemization of the postcard prepared, "by the Applicant at the time of filing, not, as the January Decision suggests, a number presumably added as an annotation by someone with the initials "SK"." It is unclear how applicant's interpretation would lead to the acceptance of the missing drawing sheets as the "time of filing" was when the parcel was opened at the Office, the papers inspected and the postcard annotated by the USPTO employee with the initials "SK".

Applicant further argues that the plain meaning of the language of section 503 requires that the return postcard as it appeared prior to receipt by the USPTO be considered as an item of evidence. However, the words included in applicant's petition, "itemization of all the items being submitted" do not appear in section 503. While section 503 does states that a postcard, "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" section 503 goes on to explain that this will not be the case if the postcard has been annotated as it has in the present circumstance. The drafters of the section did not need to craft the language in a manner suggested by applicant because the case at hand was dealt with in the final paragraph on section 503.

Applicant also re-states that the postcard as filed has not been given proper consideration and cites the Federal Rules of Evidence Rule 803. FRE 803 deals with exceptions to the hearsay rule. One of the exceptions is records of regularly conducted activity. The use of a return receipt postcard for a specific application wouldn't be considered a business record within the meaning of FRE 803 as it only pertains to the specific application and is therefore not a regularly kept record. In any event it is unclear how consideration of the original return postcard as it appeared before the papers were inspected at the USPTO would be helpful in later determining what papers were filed as it is in direct contracts to the annotated postcard.

Applicant continues to contend that the additional evidence provided by applicant

outweighs the annotation of the postcard made at the time the papers were filed in the USPTO. Applicant does not provide any citations of law nor provisions of the MPEP to support this contention and its repeated claim does not make it so. In addition, applicant seems to indicate that because applicant has not been provided with the name of the USPTO employee who reviewed the filing and annotated the return postcard, somehow the annotation is illegitimate. Indeed, applicant suggests that the postcard was perhaps annotated by some other party who happened upon the filing. This in spite of the clear provisions of section 503 which indicates that the person who first opens the mailing in question and inspects the filing is the party who annotates the postcard. The reason the annotated postcard carries so much weight is precisely because it is made at the time the parcel is open by a disinterested party. Contrast this with an affidavit made at a later date, by an interested party who has been informed that papers were missing and seeks there inclusion. Applicant details the many papers which the USPTO processes and states that "all organizations can and do lose documents." Yet, applicant does not seem to consider the possibility that the law firm in question could err in preparing and mailing the filing in question.

Similarly, applicant states that the fact that a U.S. patent application filed at the same time and containing all of it's listed papers should be considered as evidence in the present international application. It is not clear how this fact supports applicant's contention that all the drawings in the present case were included any more than an incomplete U.S. application would show that they were not. It is entirely possible that there was an error in the copying of the papers for the international application but not the U.S. application.

Applicant states in the present renewed petition that its prior arguments were not dealt with and mis-characterized. Applicant then for the first time cites *Helfgott & Karas, P.C. v. Dickenson*, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000). Applicant then states the prior decisions and handling of applicant's application is amounts to "refusal to abide by the letter and spirit of the rule, and failure to objectively consider all of the evidence presented." In the *Helfgott* case, while the application numbers were transposed, the Rule 91.1 rectification of the Demand was timely filed under PCT Rule 91.1 (g)(ii). Nor did the court in *Helfgott* waive any PCT provision. In the present case, the total sheets of drawings were not filed in a timely fashion as evidenced by the annotated postcard. Applicant continues to contend that other evidence provided by applicant has not been considered, or in the present renewed petition, not considered "objectively." Applicant does not support this contention of non-objectivity especially in the light of the fact that applicant has been told that the Kim declaration has been considered for what it is an affidavit prepared by an interested party after the fact.

As applicant has failed to provide any additional evidence to indicate that the annotation of the postcard was incorrect, applicant's renewed petition under 37 CFR 1.181 is **DISMISSED**.

II. PETITION UNDER 37 CFR 1.183

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...subject to other requirements as may be imposed."

Applicant does not indicate in its present filing which regulation is to be suspended or waived. Further, 37 CFR 1.183 does not provide the Director to suspend or waive provisions of the Patent Cooperation Treaty. Lastly, even were this the case, applicant has not shown that justice requires the drawings in question to be accepted as having been filed on the international filing date. While the drawings in question are present in the priority document and applicant is correct that PCT Rule 20 will be changed as of 01 April 2007 to address situations such as the present and there is no evidence to indicate the introduction of new matter, the record shows that the drawings were not included on the international filing date and it would cause the Office additional work to incorporate them now. However, the main reason that justice does not require the present inclusion of the drawings as having been filed on 30 June 2006 is that the drawings can be amended pursuant to PCT Article 34.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **DISMISSED**.

Applicant's petition under 37 CFR 1.183 is **DISMISSED**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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31 JAN 2008

Thomas J. Kowalski
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In re Application of
MAGELLAN COMPANIES, INC.
PCT No.: PCT/US06/26753
International Filing Date: 10 July 2006
Priority Date: 08 July 2005
Attorney's Docket No.: 293003-2006.WO
For: POLYMER COATINGS CONTAINING PHYTOCHEMICAL AGENTS AND METHODS FOR MAKING AND USING SAME

DECISION ON PETITION

This decision is issued in response to applicant's "Petition Under 37 CFR 1.10(c) (To Correct Mailing Date), and Response to Invitation to Correct Priority Date " filed by facsimile 07 January 2008. Additionally, this decision is issued in response to applicant's "Revised Petition Under 37 CFR 1.10(c) (To Correct Mailing Date), and Response to Invitation to Correct Priority Date" filed by facsimile 29 January 2008. No petition fee is required.

BACKGROUND

In the present petition, applicant asserts that the present international application was filed in the USPTO via "Express Mail"on 10 July 2006. The Record Copy of the application forwarded to the International Bureau (IB) indicated an international filing date of 11 July 2006.

On 13 September 2006, the United States Receiving Office ("RO/US") mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) indicating that the international filing date was 10 July 2006.

On 26 October 2006, the IB mailed an "Invitation to Correct Priority Claim" (Form PCT/IB/316) indicating that the "filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date."

On 07 January 2008, applicant filed the petition considered herein. The petition states that the filing date for application should be corrected to 10 July 2006, the date on which the application materials were purportedly deposited with the USPS as "Express Mail." The petition is accompanied by a copy of the "Express Mail" label, which bears what appears to be a USPS stamp dated 10 July 2006.

DISCUSSION

The present petition is made under 37 CFR 1.10(c). This provision is applicable where materials filed by "Express Mail" have been granted a USPTO filing date that differs from the "Express Mail" "date in" entered by the USPS. Here, applicant asserts that the present international application, accorded a 11 July 2006 filing date by the USPTO, was deposited with the USPS as "Express Mail" on 10 July 2006. In support of this assertion, applicant has provided a copy of "Express Mail" label number EV746680459US. This label does not include a readable "date in," but it bears what appears to be a USPS stamp dated 10 July 2006. The petition also includes a copy of the "Certificate Of Mailing Under 37 CFR 1.10" included with the original application papers. This certification, executed by Charles Jackson, states that the application was filed using "Express Mail" label number EV746680459US, and that the envelope was deposited on 10 July 2006.

However, a review of the application file reveals that the "date in" entered by the USPS on the "Express Mail" label was 11 July 2006. In addition, the USPS "Express Mail" tracking database indicates that this "Express Mail" envelope was accepted by the USPS at 4:29 a.m. on 11 July 2006. Under these circumstances, where the applicant is seeking to have the USPTO apply a filing date which is different from the "date in" entered by the USPS, it is 37 CFR 1.10(d) that applies, not 37 CFR 1.10(c).

37 CFR 1.10(d) provides:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being within one business

day after deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied all the requirements for a grantable petition. With respect to the showing required under item (3), applicant has provided a copy of the "Express Mail" customer receipt that bears a USPS stamp dated 10 July 2006. Additionally, applicant has submitted "Declaration of Charles Jackson in Support of Petition to Correct Mailing Date" which states that Express Mail package label no. EV746680459US was hand-carried to the United States Post Office on July 10, 2006 and said package was processed and accepted by a USPS clerk prior to the last scheduled pickup. These materials provide an adequate showing that the materials initiating this international application was deposited with the USPS as "Express Mail" on 10 July 2006.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 10 July 2006. Accordingly, applicant's petition is accepted.

CONCLUSION

For the reasons discussed above, applicant's request that the office accord an international filing date of 10 July 2006 to the international application is **GRANTED**.

The application is being returned to the US Receiving Office to processing in accordance with this decision, that is, for: (1) according the international application a date of receipt of **10 July 2006**; (2) forwarding notice of the 10 July 2006 international filing date to the International Bureau; (3); forwarding a copy of this decision to the International Bureau; and (4) requesting that the International Bureau withdraw the "Invitation to Correct Priority Claim" (Form PCT/IB/316) mailed 26 October 2006.

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PCT/US06/26753

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 06/26753

10 JUL 2006 (10.07.06)
International Filing Date

PCT INTERNATIONAL APPLICATION RO/US
Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 293003-2006.WO

Box No. I TITLE OF INVENTION

POLYMER COATINGS CONTAINING PHYTOCHEMICAL AGENTS AND METHODS FOR MAKING AND USING SAME

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below)*

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476 Old Carolina Court
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US

Telephone No.

Facsimile No.

Teleprinter No.

Applicant's registration No with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address. *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below)*

SEABROOK, Samuel G., Jr.
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476 Old Carolina Court
Mt. Pleasant, South Carolina 29364
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This person is.
☐ applicant only
☒ applicant and inventor
☐ inventor only *(If this check-box is marked, do not fill in below)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☐ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name, for a legal entity, full official designation. The address must include postal code and name of country)*

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☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

11 JUN 2007

United States Patent and Trademark Office

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In re Application of
APACHETA CORPORATION
PCT No.: PCT/US06/27116
Int. Filing Date: 12 July 2006
Priority Date: 12 July 2005
Attorney's Docket No.: 74069-200501
For: Methods And Apparatuses To Provide Mobile Applications

DECISION ON PETITION

This is in response to applicants' petition under 37 CFR 1.10(c) filed on 27 October 2006.

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 14 September 2006, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 13 July 2006 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 12 July 2006, rather than 13 July 2006 as indicated on Form PCT/RO/105.

Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with **37 CFR 1.10(c)(1)**.

The petition complies with **37 CFR 1.10(c)(2)** because an Express Mail mailing label number, EQ703150034US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application (the original copy of which is present in the application file).

With regard to **37 CFR 1.10(c)(3)**, counsel has provided a copy of the Customer Copy of the Express Mail mailing label, number EQ703150034US, which shows a "date-in" of "7 12 06," as well as a USPS plug stamp dated "JUL 12 2006." The original "Addressee Copy" of the Express Mail mailing label at issue is present in the application file, and corroborates the "date-in" of 7 12 06." This date-in is also corroborated by the USPS Track & Confirm web page. Based on the totality of the evidence of record, it would be appropriate to conclude that 37 CFR 1.10(c)(3) has been satisfied. Accordingly, the Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) mailed on 14 September 2006 is hereby **VACATED**.

DECISION

Applicants' petition is **GRANTED**, for the reasons described *supra*.

A new Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) and a copy of the first page of the PCT Request (Form PCT/RO/101) bearing the corrected international filing date of **12 July 2006** are attached hereto.

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cc: International Bureau of WIPO

enc.: Form PCT/RO/105
Form PCT/RO/101, first page

UNITED STATES PATENT AND TRADEMARK OFFICE

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20 OCT 2006

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In re Application of
WU, et al.
PCT No.: PCT/US06/28017
Int. Filing Date: 18 July 2006
Priority Date: 18 July 2005
Atty. Docket No.: 1131.1 PC
For: METHOD FOR MAKING AMPHIPHILIC DENDRIMERS

DECISION ON PETITION

UNDER 37 CFR 1.10

This decision is in response to applicant's "Response to Invitation to Correct Priority Claim And Request For Correction of International Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 14 September 2006. The petition is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 18 July 2005.

The United States Receiving Office (US/RO) accorded the application an international filing date of 19 July 2006. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 31 August 2006. In addition, applicant was mailed an "Invitation to Correct Priority Claim" (Form PCT/RO/110).

On 14 September 2006, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 18 July 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 19 July 2006.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the application file finds the original Express Mail envelope contained therein. The envelope clearly has "7-18-06" as the "date-in" date. Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed on 31 August 2006 are hereby **VACATED**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision, that is, for preparing and mailing of a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 18 July 2006.

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CC: International Bureau of WIPO
34, chemin des Colombettes
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Switzerland

18 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	DECISION ON
PLOOM	:	
PCT No.: PCT/US06/28039	:	PETITION
Int. Filing Date: 18 July 2006	:	
Priority Date: 19 July 2005	:	
Attorney's Docket No.: PLOOMP001PCT	:	
For: METHOD AND SYSTEM FOR VAPORIZATION OF A SUBSTANCE	:	

This decision is in response to applicant's submission filed 25 June 2007, which has properly been treated as a under 37 CFR 1.181.

BACKGROUND

On 11 September 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 18 July 2006.

On 25 June 2007, applicant filed the instant submission which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the serial number of the priority application in Item VI-2 of the Request be changed from 11/000,000 to 11/485,168.

PCT Rule 26*bis*.1(a) states that the applicant may correct a priority claim within a time limit of 16 months from the priority date or four months from the international filing date. The request to correct the priority claim to US serial number 11/485,168 filed 11 July 2006 was not filed within either of these time limits.

Petition Under 37 CFR 1.181

The petition urges that the correction be made despite PCT Rule 26bis.1(a) because the PCT Easy software used by applicant required the entry of a serial number for the second priority

application filed 11 July 2006 even though the serial number for this application was not known at the time of filing and because the RO/US did not "follow its normal procedure and afford Applicants an opportunity to correct the priority claim."

Regarding the PCT Easy software, this software is maintained by the International Bureau of WIPO rather than the RO/US. It is alleged that the software required a serial number for the second priority application but no evidence has been provided to establish that this is the case. Applicant may have had the option to override any error message generated regarding the priority claim when using the PCT Easy software.

Regarding affording the applicant an opportunity to correct the priority claim, applicant could have corrected the claim within the time period set forth in PCT Rule 26bis.1(a). Applicant was aware or at least should have been aware that the serial number for the second priority document was in error as of the date of filing the Request. An invitation to correct the priority is not necessary for applicant to correct the priority claim. Additionally, the time period set forth in PCT Rule 26bis.1(a) is not affected by whether or not an invitation to correct the priority claim has been sent.

PCT Rule 26bis.2(c)

Attention is directed to PCT Rule 26bis.2(c) which indicates that a priority claim shall not be considered void only because an indication in the priority claim is inconsistent with the corresponding indication appearing in the priority document. Here, the indication of the serial number as 11/000,000 is inconsistent with the actual application number. Accordingly, the priority claim should not be considered void.

PCT Rule 26bis.2(e)

Attention is also directed to PCT Rule 26bis.2(e) which states that where the applicant wishes to correct a priority claim but the time limit under Rule 26bis.1 has expired, the application may, prior to the expiration of thirty months from the priority date and subject to a special fee (Administrative Instruction 113(c)) request the International Bureau (IB) to publish information concerning the matter, and the IB will promptly publish such information.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to PCT Central Files for storage.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

PCT/US06/028365 09 JAN 2007

076569.0130

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTN. OFFICE OF PCT LEGAL ADMINISTRATION

Applicant	:	LAYERED MEDIA, INC.
International Application No.	:	PCT/US06/028365
International Filing Date	:	20 July 2006 (subject to instant request)
Title of Invention	:	SYSTEM AND METHOD FOR SCALABLE AND LOW-DELAY VIDEOCONFERENCING USING SCALABLE VIDEO CODING

EXPRESS MAIL LABEL NO. ED762060122US

RENEWED PETITION UNDER 37 C.F.R. § 1.10(d)

MAIL STOP PCT,
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Office of PCT Legal Administration

Sir:

Applicant responds to the "Decision on Petition Under 37 C.F.R. 1.10 mailed on November 9, 2006 ("Decision") on applicant's "Communication to Correct Filing Date" filed October 5, 2006 ("Request"). Both of the November Decision and PCT Request are incorporated by reference herein in their entireties. Applicant believes no fees are due with this submission, but authorizes the Commissioner to charge any fees that may be due to Deposit Account No. 02-4377.

076569.0130

REMARKS

Applicant appreciates the kind consideration given to their Request to correct the filing date, which was properly treated as a petition under C.F.R. § 110(d) by the Office of PCT Legal Administration.

The Decision advises that applicant's Request did not satisfactorily meet the requirements of the third item of C.F.R. § 110(d). In particular, the Decision advises that PCT Request (1) did not include a statement from Courier Todd Tilley detailing exactly when he deposited the Express Mail with a Post Office; (2) the dates of the barrel stamps on the Express Mail Receipt are illegible; and (3) that no objective evidence from the USPS was included.

Here, applicant addresses each of these three items.

Statement from Courier Todd Tilley

Applicant now attaches a Declaration of Todd Tilley, who is an Independent Contractor doing courier work for Quality Transportation. Todd Tilley's Declaration (item 4) indicates that he delivered the subject express mail packages to the Post Office Counter just before midnight on Thursday July 20, 2006.

Applicant respectfully submits that Todd Tilley's Declaration confirms that the subject Express Mail package was delivered to, and in physical possession and control of, the U.S. Post Office on July 20, 2006. Therefore, the Express Mail marking of July 21, 2006 by the USPS is incorrect.

Franking Markings on Express Mail Receipt

Applicant agrees that the two franking marks of July 20 2006(center crossed out by ink) and July 21 2006 (not crossed out) are difficult to read and

differentiate on the photocopy included with the original PCT request, because of the photocopying process and the running of ink on the original paper receipt.

However, this difference is clearer on the original paper Express Mail receipt. Applicant is reluctant to send the original receipt in mail for fear of loss. However, the undersigned proposes to hand deliver the original Express Mail receipt to the Office of PCT Legal Administration if that would be helpful in proper determination of this petition.

The undersigned also submits that more than one U.S. Post Office personnel at the James Farley Post Office, 421 Eight Avenue NY, NY have verified and have verbally confirmed that the Express Mail Receipt shows two adjacent franking stamp marks with the dates of "July 20 2006" and July 21 2006" in red ink at their respective centers, wherein the numerals "20" in the first franking mark are crossed out with blue pen.

U.S. Post Office

Applicant regrets that the same U.S. Post Office personnel (including the floor supervisory staff, consumer affairs personnel and the legal department) have not been agreeable to providing an objective evidence letter in writing. Unfortunately, the subject U.S. Post Office takes the position that it will not even hint in writing at any error on their part.

The undersigned has meet with, spoken over the telephone, and written letters to the same personnel asking for an objective letter stating the objective facts (including the fact that there are two date stamps on the back of one of the Express Mail Receipts, and the further fact that the hour-minute times handwritten on the front of the Express Mail Receipts are different from those entered in their computer record). The

U.S. Post Office bureaucratic stonewalling can be best summarized in the words of their lawyer: "The Post Office is not in the business of giving out letters"; and that "the evidence speaks for itself." This, despite repeated assurances by the undersigned that the U.S. Post Office itself was not the object of any present or future action by the applicant.

The undersigned respectfully submits that he was told by the U.S. Post Office Floor Supervisor (who would not issue an objective letter without their legal department's clearance) that there was a clear issue that the USPS counter person probably took too long to process the Express Mail packages, and that the two franking stamps indicated that the clock date changed while the courier was at the counter. Further, the Floor Supervisor indicated that the courier could have on-the-spot properly requested and insisted that all Express Mail receipts be properly marked July 20, 2006 as the delivery time.

076569.0130

Conclusion

Applicants respectfully request consideration of the foregoing remarks and evidence, in view of which the applicant contends that the subject application was delivered to, and in the physical custody and control of United States Post Personnel on July 20, 2006. Accordingly, applicants respectfully request a favorable decision on this petition.

Further, applicants request that the Attorney or Administrator examining this Petition should contact the undersigned for a telephone or in-person discussion if that would be helpful in resolving any outstanding issues.

Respectfully submitted,
BAKER BOTTS L.L.P.

Dated: January 9, 2007

Manu J. Tejwani
Reg. No. 37,952

Attorney for Applicant
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Enclosures

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16 FEB 2007

Manu J. Tejwani
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In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON PETITION
PCT No.: PCT/US06/28365	:	
Int. Filing Date: 21 July 2006	:	UNDER 37 CFR 1.10
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0130	:	
For: SYSTEM AND METHOD FOR SCALABLE AND LOW-DELAY VIDEOCONFERENCING USING SCALABLE VIDEO CODING	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 09 January 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 09 November 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 09 January 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 09 November 2006,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. While applicant has presently included a statement from courier Todd Tilley detailing when he deposited the Express Mail mailing with a postal employee; applicant's showing has not been 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.

Applicant has detailed the unsuccessful attempts to gain this corroboration from the USPS, however, absent such a showing it is not possible to grant applicant's renewed petition. The Manual of Patent Examining Procedure, Section 513 explains:

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

(A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or

(B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").

On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

Since the declaration of Mr. Tilley was prepared more than one business day after the correspondence was deposited with the USPS is can not be considered as corroborating evidence to support the contention that the Express Mail mailing was deposited prior to midnight on 20 July 2006.

Regarding the post office barrel stamps on the back of the Express Mail mailing label, even if the dates were legible it is not clear that these stamps would corroborate applicant's contention absent further explanation from the USPS. Specifically, it is presume that the date applicant desires, 20 July 2006, is the stamp that has been crossed out by the USPS. This suggest that the USPS employee saw the 20 July 2006 stamp as an error and crossed it out before stamping the envelope with the 21 July 2006 stamp (the "date-in" date). In addition, the USPS would need to explain the fact that two date stamps appear on the mailing.

As such, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

06 SEP 2007

Manu J. Tejwani
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30 Rockefeller Plaza
New York, NY 10112-4498

In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/28365	:	
Int. Filing Date: 21 July 2006	:	PETITION UNDER
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0130	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FOR SCALABLE AND LOW-DELAY VIDEOCONFERENCING USING SCALABLE VIDEO CODING	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 16 April 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 16 February 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 16 April 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 16 February 2007,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. Applicant previously provided a statement from courier Todd Tilley dated 29 November 2006 detailing when he deposited the Express Mail mailing with a postal employee. Applicant's previous petition was dismissed as the showing had not been 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. Applicant also previously detailed the unsuccessful attempts to gain this corroboration from the USPS.

Applicant presently argues that the Manual of Patent Examining Procedure (MPEP) Section 513 states that evidence dated after one business day is grounds for denial if it is the "only" evidence provided and seeks consideration of the totality of the evidence in support of a filing date of 20 July 2006. Applicant is advised that the Office has considered all of the evidence provided to date including, the statements of counsel, the statement of the courier and the two barrel/franking stamps. As discussed in the decisions mailed 09 November 2006 and 17 February 2007, the two barrel/franking stamps are illegible and don't support the contention that the Express Mail mailing in question was deposited on 20 July 2006. As to the statements on file, MPEP 513 is clear that the submission **must** be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS:

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by

evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

(A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or

(B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").

On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

Applicant has presently provided an email from counsel with a date and time of July 20, 2006, 11:14pm indicating that, "All four applications are out of the door for US and PCT filings by Express Mail." This correspondence, while a business record, does not corroborate a showing that the Express Mail mailing was in fact deposited with the USPS on 20 July 2006. The email was sent at 11:14pm; which is prior to the depositing of the mailing. (See example A above for denial) In addition, counsel does not have firsthand knowledge of the depositing of the mailing. Counsel's email is not the equivalent of a log book in which the individual who deposited the mailing makes a notation in the log book. Similarly, the email correspondence of Ms. Laurie Ann Nieves, while made after deposit and within one business day, does not contain any firsthand knowledge of the actual depositing of the Express Mail mailing, but merely transmits copies of the transmittal papers and application.

Applicant's evidence has been considered, however, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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15 JAN 2008

Manu J. Tejwani
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In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/28365	:	
Int. Filing Date: 21 July 2006	:	PETITION UNDER
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0130	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FOR SCALABLE AND LOW-DELAY VIDEOCONFERENCING USING SCALABLE VIDEO CODING	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 06 November 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 06 September 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 06 November 2007, applicant filed the present renewed petition.

DISCUSSION

37 CFR 1.10(b) states: Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

As detailed in the decision mailed 06 September 2007,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. The Manual of Patent Examining Procedure (MPEP) Section 513 states that the submission **must** be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS:

The email correspondence of Ms. Laurie Ann Nieves, while made after deposit and within one business day, does not contain any firsthand knowledge of the actual depositing of the Express Mail mailing, but merely transmits copies of the transmittal papers and application. According to her presently filed affidavit, the preparation of the email and pdf attachments was made, "only because I understood that the applications had indeed been mailed on July 20, 2006." Since Ms. Nieves does not have direct knowledge of the actual depositing of the Express Mail mailings, her affidavit and supporting exhibits, do not satisfy item three above.

As to applicant's other points, the Office has a color copy of the barrel stamps in question on file, therefore hand delivery of the original Express Mail receipt is not necessary. This evidence, while from the USPS does not support applicant's contention that the mailings were deposited on 20 July 2006 since a) there are two markings on the receipt and b) the desired date of 20 July 2006 is the stamp which has been crossed out. Absent a statement from the USPS to the contrary, this leads to the conclusion that the stamping of 20 July 2006 was incorrect and the actual date of deposit was 21 July 2006. Similarly, a letter from the USPS verifying the two marks, but not indicating that the according of a "date-in" date of 21 July 2006 was a mistake would not be persuasive.

Applicant's evidence has been considered, however, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

17 JUL 2009

Commissioner for Patents
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www.uspto.gov

Manu J. Tejwani
Baker Botts, LLP
30 Rockefeller Plaza
New York, NY 10112-4498

In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/28365	:	
Int. Filing Date: 21 July 2006	:	PETITION UNDER
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0130	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FOR SCALABLE AND	:	
LOW-DELAY VIDEOCONFERENCING USING	:	
SCALABLE VIDEO CODING	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 02 December 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 15 January 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 02 December 2008, applicant filed the present renewed petition.

DISCUSSION

It is noted that applicant was afforded two months from the mail date of the decision mailed 15 January 2008 to file any request for reconsideration. 37 CFR 1.181 (f) states:

> Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Notwithstanding 37 CFR 1.181 (f) and applicant's lack of explanation for the delay in filing the renewed petition considered herein, a decision on the merits follows.

As detailed in the previous decision, 37 CFR 1.10(b) states: Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail"

mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2. Applicant presently contends that the evidence previously submitted satisfies this item. Applicant is not correct.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. The Manual of Patent Examining Procedure (MPEP) Section 513 states that the submission **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:

As previously discussed, the email correspondence of Ms. Laurie Ann Nieves, while made after deposit and within one business day, does not contain any firsthand knowledge of the actual depositing of the Express Mail mailing, but merely transmits copies of the transmittal papers and application. According to her filed affidavit, the preparation of the email and pdf attachments was made, "only because I understood that the applications had indeed been mailed on July 20, 2006." Since Ms. Nieves does not have direct knowledge of the actual depositing of the Express Mail mailings, her affidavit and supporting exhibits, do not satisfy item three above.

As to applicant's other points, the barrel stamps in question, while firsthand evidence from the USPS does not support applicant's contention that the mailings were deposited on 20 July 2006 since a) there are two markings on the receipt and b) the desired date of 20 July 2006 is the stamp which has been crossed out. Absent a statement from the USPS to the contrary, this leads to the conclusion that the stamping of 20 July 2006 was incorrect and the actual date of deposit was 21 July 2006. Similarly, a letter from the USPS verifying the two marks, but not indicating that the according of a "date-in" date of 21 July 2006 was a mistake would not be persuasive.

Lastly, the declaration of Todd Tilley (dated November 29, 2006) was not made within one business day of deposit of the Express Mail mailings.

Applicant's evidence has been considered, however, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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16 FEB 2007

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In re Application of :
LAYERED MEDIA, INC. : DECISION ON PETITION
PCT No.: PCT/US06/28366 :
Int. Filing Date: 21 July 2006 : UNDER 37 CFR 1.10
Priority Date: 20 July 2005 :
Atty. Docket No.: 076569.0132 :
For: SYSTEM AND METHOD FOR A CONFERENCE SERVER ARCHITECTURE FOR LOW DELAY AND DISTRIBUTED CONFERENCING APPLICATIONS :

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 09 January 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 09 November 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 09 January 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 09 November 2006,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. While applicant has presently included a statement from courier Todd Tilley detailing when he deposited the Express Mail mailing with a postal employee; applicant's showing has not been 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.

Applicant has detailed the unsuccessful attempts to gain this corroboration from the USPS, however, absent such a showing it is not possible to grant applicant's renewed petition. The Manual of Patent Examining Procedure, Section 513 explains:

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

(A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or

(B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as

"Express Mail").

On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

Since the declaration of Mr. Tilley was prepared more than one business day after the correspondence was deposited with the USPS is can not be considered as corroborating evidence to support the contention that the Express Mail mailing was deposited prior to midnight on 20 July 2006.

Regarding the post office barrel stamps on the back of the Express Mail mailing label, even if the dates were legible it is not clear that these stamps would corroborate applicant's contention absent further explanation from the USPS. Specifically, it is presume that the date applicant desires, 20 July 2006, is the stamp that has been crossed out by the USPS. This suggest that the USPS employee saw the 20 July 2006 stamp as an error and crossed it out before stamping the envelope with the 21 July 2006 stamp (the "date-in" date). In addition, the USPS would need to explain the fact that two date stamps appear on the mailing.

As such, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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06 SEP 2007

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In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/28366	:	
Int. Filing Date: 21 July 2006	:	PETITION UNDER
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0132	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FOR A CONFERENCE SERVER ARCHITECTURE FOR LOW DELAY AND DISTRIBUTED CONFERENCING APPLICATIONS	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 16 April 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 16 February 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 16 April 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 16 February 2007,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. Applicant previously provided a statement from courier Todd Tilley dated 29 November 2006 detailing when he deposited the Express Mail mailing with a postal employee. Applicant's previous petition was dismissed as the showing had not been 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. Applicant also previously detailed the unsuccessful attempts to gain this corroboration from the USPS.

Applicant presently argues that the Manual of Patent Examining Procedure (MPEP) Section 513 states that evidence dated after one business day is grounds for denial if it is the "only" evidence provided and seeks consideration of the totality of the evidence in support of a filing date of 20 July 2006. Applicant is advised that the Office has considered all of the evidence provided to date including, the statements of counsel, the statement of the courier and the two barrel/franking stamps. As discussed in the decisions mailed 09 November 2006 and 17 February 2007, the two barrel/franking stamps are illegible and don't support the contention that the Express Mail mailing in question was deposited on 20 July 2006. As to the statements on file, MPEP 513 is clear that the submission **must** be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS:

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the

USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

(A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or

(B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").

On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

Applicant has presently provided an email from counsel with a date and time of July 20, 2006, 11:14pm indicating that, "All four applications are out of the door for US and PCT filings by Express Mail." This correspondence, while a business record, does not corroborate a showing that the Express Mail mailing was in fact deposited with the USPS on 20 July 2006. The email was sent at 11:14pm; which is prior to the depositing of the mailing. (See example A above for denial) In addition, counsel does not have firsthand knowledge of the depositing of the mailing. Counsel's email is not the equivalent of a log book in which the individual who deposited the mailing makes a notation in the log book. Similarly, the email correspondence of Ms. Laurie Ann Nieves, while made after deposit and within one business day, does not contain any firsthand knowledge of the actual depositing of the Express Mail mailing, but merely transmits copies of the transmittal papers and application.

Applicant's evidence has been considered, however, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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PCT/US06/28366 . 09.11.2006

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11/27/06

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In re Application of :
LAYERED MEDIA, INC. : DECISION ON PETITION
PCT No.: PCT/US06/28366 :
Int. Filing Date: 21 July 2006 : UNDER 37 CFR 1.10
Priority Date: 20 July 2005 :
Atty. Docket No.: 076569.0132 :
For: SYSTEM AND METHOD FOR A CONFERENCE SERVER ARCHITECTURE FOR LOW DELAY AND DISTRIBUTED CONFERENCING APPLICATIONS :

This decision is in response to applicant's "Communication to Correct Filing Date" filed 05 October 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

Applicant filed a PCT Request with the United States Receiving Office (RO/US). The international application claimed priority to an application filed in the United States on 20 July 2005.

On 13 September 2006, applicant was mailed a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating that the international filing date was 21 July 2006.

On 05 October 2006, applicant filed the present petition seeking an international filing date of 20 July 2006.

DISCUSSION

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant has satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. Applicant has not provided an impartial business record such as a mailing log entry created after (but within 24 hours of) the express mail parcel was deposited with the USPS. Applicant has included a statement from the evening dispatcher for the courier service which took the Express Mail mailing to the post office. However, the dispatcher does not have first hand knowledge of the actual delivery of the subject parcel. Applicant has not included a statement from courier Todd Tilley detailing exactly when he deposited the Express Mail mailing with a postal employee.

As to the two franking stamps on the back of the receipt, neither the desired crossed out date nor the other date are legible. Therefore, applicant has not included any evidence from the USPS to support the contention that the mailing was deposited with the USPS on 20 July 2006 prior to the last scheduled pickup.

As such, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

PCT/US06/28366 .09112006

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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15 JAN 2008

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In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/28366	:	
Int. Filing Date: 21 July 2006	:	PETITION UNDER
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0132	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FOR A CONFERENCE SERVER ARCHITECTURE FOR LOW DELAY AND DISTRIBUTED CONFERENCING APPLICATIONS	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 06 November 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 06 September 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 06 November 2007, applicant filed the present renewed petition.

DISCUSSION

37 CFR 1.10(b) states: Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

As detailed in the decision mailed 06 September 2007,

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. The Manual of Patent Examining Procedure (MPEP) Section 513 states that the submission **must** be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS:

The email correspondence of Ms. Laurie Ann Nieves, while made after deposit and within one business day, does not contain any firsthand knowledge of the actual depositing of the Express Mail mailing, but merely transmits copies of the transmittal papers and application. According to her presently filed affidavit, the preparation of the email and pdf attachments was made, "only because I understood that the applications had indeed been mailed on July 20, 2006." Since Ms. Nieves does not have direct knowledge of the actual depositing of the Express Mail mailings, her affidavit and supporting exhibits, do not satisfy item three above.

As to applicant's other points, the Office has a color copy of the barrel stamps in question on file, therefore hand delivery of the original Express Mail receipt is not necessary. This evidence, while from the USPS does not support applicant's contention that the mailings were deposited on 20 July 2006 since a) there are two markings on the receipt and b) the desired date of 20 July 2006 is the stamp which has been crossed out. Absent a statement from the USPS to the contrary, this leads to the conclusion that the stamping of 20 July 2006 was incorrect and the actual date of deposit was 21 July 2006. Similarly, a letter from the USPS verifying the two marks, but not indicating that the according of a "date-in" date of 21 July 2006 was a mistake

would not be persuasive.

Applicant's evidence has been considered, however, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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17 JUL 2009

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In re Application of	:	
LAYERED MEDIA, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US06/28366	:	
Int. Filing Date: 21 July 2006	:	PETITION UNDER
Priority Date: 20 July 2005	:	
Atty. Docket No.: 076569.0132	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FOR A CONFERENCE SERVER ARCHITECTURE FOR LOW DELAY AND DISTRIBUTED CONFERENCING APPLICATIONS	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(d)" filed 02 December 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 15 January 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.10(d) to assign the present international application an international filing date of 20 July 2006. Applicant was afforded two months to file any request for reconsideration.

On 02 December 2008, applicant filed the present renewed petition.

DISCUSSION

It is noted that applicant was afforded two months from the mail date of the decision mailed 15 January 2008 to file any request for reconsideration. 37 CFR 1.181 (f) states:

Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Notwithstanding 37 CFR 1.181 (f) and applicant's lack of explanation for the delay in filing the renewed petition considered herein, a decision on the merits follows.

As detailed in the previous decision, 37 CFR 1.10(b) states: Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in

an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant previously satisfied items 1 and 2. Applicant presently contends that the evidence previously submitted satisfies this item. Applicant is not correct.

Regarding item 3, the "date-in" date on the mailing label, as well as the track and confirm database of the USPS shows an acceptance date of 21 July 2006. The Manual of Patent Examining Procedure (MPEP) Section 513 states that the submission **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:

As previously discussed, the email correspondence of Ms. Laurie Ann Nieves, while made after deposit and within one business day, does not contain any firsthand knowledge of the actual depositing of the Express Mail mailing, but merely transmits copies of the transmittal papers and application. According to her filed affidavit, the preparation of the email and pdf attachments was made, "only because I understood that the applications had indeed been mailed on July 20, 2006." Since Ms. Nieves does not have direct knowledge of the actual depositing of the Express Mail mailings, her affidavit and supporting exhibits, do not satisfy item three above.

As to applicant's other points, the barrel stamps in question, while firsthand evidence from the USPS does not support applicant's contention that the mailings were deposited on 20 July 2006 since a) there are two markings on the receipt and b) the desired date of 20 July 2006 is the stamp which has been crossed out. Absent a statement from the USPS to the contrary, this leads to the conclusion that the stamping of 20 July 2006 was incorrect and the actual date of deposit was 21 July 2006. Similarly, a letter from the USPS verifying the two marks, but not indicating that the according of a "date-in" date of 21 July 2006 was a mistake would not be persuasive.

Lastly, the declaration of Todd Tilley (dated November 29, 2006) was not made within one business day of deposit of the Express Mail mailings.

Applicant's evidence has been considered, however, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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14 SEP 2007

JAMES DAVID JACOBS
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NEW YORK, NY 10036

In re Application of DE MONSEIGNAT :
PCT Application No.: PCT/US2006/028968 :
Int. Filing Date: 27 July 2006 :
Priority Date Claimed: 26 July 2005 : DECISION
Attorney Docket No.: 56175356-8 :
For: SYSTEM AND METHOD FOR :
FACILITATING SECURE TRANSACTIONS :
OVER COMMUNICATION NETWORKS :

This is in response to applicant's "Petition to Commissioner Under 37 C.F.R. § 1.10(c)" filed 21 August 2007.

BACKGROUND

On 27 July 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 27 July 2006.

On 14 June 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 21 August 2007, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the Transmittal Letter (Form PTO-1382) and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label has conflicting indications as to the date of deposit. The mailing label shows a "date-in" of 27 July 2007 but bears a USPS date stamp of 26 July 2007. In view of this discrepancy, petitioner is required to supply a statement from the individual who personally deposited the correspondence in Express Mail.[1] Such statement should specify that the correspondence was deposited in Express Mail prior to the last scheduled pickup on the date alleged.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

[1] See 37 CFR 1.10(f).

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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18 DEC 2007

JAMES DAVID JACOBS
BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of DE MONSEIGNAT :
PCT Application No.: PCT/US2006/028968 :
Int. Filing Date: 26 July 2006 :
Priority Date Claimed: 26 July 2005 : DECISION
Attorney Docket No.: 56175356-8 :
For: SYSTEM AND METHOD FOR :
FACILITATING SECURE TRANSACTIONS :
OVER COMMUNICATION NETWORKS :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.10(c)" filed 19 November 2007

BACKGROUND

On 26 July 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 27 July 2006.

On 14 June 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 21 August 2007, applicant filed a petition under 37 CFR 1.10(c).

On 14 September 2007, this Office mailed a decision dismissing the 21 August 2007 petition.

On 19 November 2007, applicant filed the present renewed petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, the Express Mail mailing label has conflicting indications as to the date of deposit. The mailing label shows a "date-in" of 27 July 2007 but bears a USPS date stamp of 26 July 2007. The renewed petition contains a sufficient statement that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 26 July 2006.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 14 June 2007 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International

Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MARK E. SCOTT
CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON TX TEXAS 77253-3267

In re Application of	:	
DANIEL MEASUREMENT AND CONTROL, INC.	:	DECISION ON
PCT No.: PCT/US06/29079	:	
Int. Filing Date: 26 July 2006	:	PETITION UNDER
Priority Date: 23 August 2005	:	
Attorney Docket No.: 1787-16602	:	37 CFR 1.181
For: METER PROVING METHOD AND SYSTEM	:	

This decision is in response to applicant's "REQUEST TO CORRECT FILING RECEIPT", which has been properly treated as a petition under 37 CFR 1.181, filed on 01 November 2006. No petition fee is due.

BACKGROUND

On 29 September 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the above-identified international application an international filing date of 26 June 2006.

On 01 November 2006, applicant submitted the instant "REQUEST TO CORRECT FILING RECEIPT" requesting that the international filing date be changed from 26 June 2006 to 26 July 2006. The request has been properly treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of a postcard receipt date-stamped 26 July 2006 by the USPTO.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 26 July 2006 applicant filed the instant application. The proof is in the form of the copy of the postcard receipt for the above-identified application which bears a United States Patent and Trademark Office date stamp of 26 July 2006 and which itemizes, *inter alia*, a PCT Request, a specification, claims, abstract, and drawings. This postcard receipt also identifies the above-captioned applicant, title, and attorney docket number. Accordingly, it is appropriate, on the present record, to accord the international application an international filing date of 26 July 2006. The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed 29 September 2006 is hereby VACATED.

A new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the above-identified international application an international filing date of 26 July 2006 is enclosed.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 22 June 2006 is hereby **VACATED**.

The application is being returned to the RO/US for processing in accordance with this decision including according the application papers an international filing date of **26 July 2006**.

Daniel Stemmer
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Office of Patent Cooperation Treaty
Legal Administration
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Enclosure:
NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105)

CC: International Bureau of WIPO

28 APR 2008

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In re Application of :
BERGHEIM, Bjarne et al. :
U.S. Application No.: none assigned :
PCT No.: PCT/US2006/029080 :
Int. Filing Date: 26 July 2006 : **DECISION**
Priority Date: 27 July 2005 :
Attorney Docket No.: 22561-8006/PCT :
For: METHODS AND SYSTEMS FOR :
CARDIAC VALVE DELIVERY :

This is a decision on applicant's request to withdraw a petition to revive, filed in the United States Patent and Trademark Office on 25 February 2008.

On 13 February 2008, applicants filed papers for entry into the national stage of PCT/US2006/029080, and a petition for revival of an unavoidably abandoned application.

On 25 February 2008, applicants filed this request "expressly abandon" the application. It has been treated as a request to withdraw the petition to revive the international application.

Applicant's request to withdraw the petition is granted. The fees now in surplus will be refunded to deposit account no. 50-1901, as authorized.

For the above reason, applicants' request to not process the petition is **GRANTED**. As the fees had not yet been processed, no further action is necessary.

/Erin P. Thomson/

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HOOVER, Kenley K.
HUMAN GENOME SCIENCES, INC.
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ROCKVILLE, MD 20850

In re Application of	:	DECISION ON
HUMAN GENOME SCIENCE, INC.	:	
PCT No.: PCT/US06/29391	:	
Int. Filing Date: 31 July 2006	:	PETITION UNDER
Priority Date: 12 August 2005	:	
Attorney Docket No.: PF617PCT	:	
For: ALBUMIN FUSION PROTEINS	:	37 CFR 1.182

This is in response to applicant's submission "PETITION UNDER 37 C.F.R. 1.182 TO MAKE COMPLETE A WHOLLY-FILED APPLICATION" filed 12 December 2006. The petition fee of $400.00 and the sequence listing fee have not been charged to Deposit Account No.: 08-3425 because Karen L. Caroll is not authorized to do this charge.

BACKGROUND

On 31 July 2006, applicant filed international application papers with the United States Receiving Office (RO/US).

On 12 December 2006, applicant filed the current petition indicating the sequence listing was not properly indicated as part of the application on the form. Instead applicant provided a paper coy of the sequence listing and clearly indicated that a paper copy of the sequence listing was associated with the application in the PCT Request Form under Section IX-18 other.

DISCUSSION

However, at this time no action can be taken on the petition filed on 12 December 2006 since the petition fee and the sequence listing fee can not be charged to the Deposit Account.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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1 4 NOV 2007

HUMAN GENOME SCIENCES, INC.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

In re Application of	:	DECISION ON
HUMAN GENOME SCIENCE, INC.	:	
PCT No.: PCT/US06/29391	:	
Int. Filing Date: 31 July 2006	:	PETITION UNDER
Priority Date: 12 August 2005	:	
Attorney Docket No.: PF617PCT	:	
For: ALBUMIN FUSION PROTEINS	:	37 CFR 1.182

This is in response to applicant's submission "RENEWED PETITION UNDER 37 C.F.R. 1.182" filed 03 August 2007. The petition fee of $400.00 has been charged to Deposit Account No.: 08-3425.

BACKGROUND

In a decision from this Office on 28 June 2007, the petition filed was dismissed because at the time of charging Karen Carroll was no longer authorized to request the charge.

On 23 August 2007, applicant filed the current renewed petition authorizing the petition fee with an agent that is currently authorized to request the charge. The original petition stated that the sequence listing was not properly indicated as part of the application on the form. Instead applicant provided a paper copy of the sequence listing and clearly indicated that a paper copy of the sequence listing was associated with the application in the PCT Request Form under Section IX-18 other.

DISCUSSION

A review of the file reveals that applicant erroneously filed the PCT Request form because no itemized listing for the number of pages of the Sequence Listing was submitted. However, the Sequence Listing was with international application PCT/US06/029391 upon filing and as such it is part of the application filed on 31 July 2006. Applicant has been charged $4,800.00 to the Deposit Account for the Sequence Listing submission of 478 pages.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED.** The Sequence Listing paper copy is considered to have been filed on **July 31, 2006** with the above aforementioned international application as part of the original filing.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

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15 DEC 2006

Samuel Weiner
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1180 Avenue of the Americas
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In re Application of :
AUTRONIC PLASTICS, INC. :
PCT No.: PCT/US06/29872 : DECISION ON PETITION
Int. Filing Date: 27 July 2006 : UNDER 37 CFR 1.10
Priority Date: 27 July 2005 :
Attorney Docket No.: P 2613-90 :
For: ANTI-THEFT SECURITY DEVICE AND :
PERIMETER DETECTION SYSTEM

This decision is issued in response to applicant's "Request for Renewed Decision on Petition and Response to Invitation to Correct Priority Claim" filed 22 November 2006, which is being treated as a petition under 37 CFR 1.10. Applicant requests that the above-identified application be accorded an international filing date of 27 July 2006.

BACKGROUND

The United States Receiving Office accorded an international filing date of 31 July 2006 to the above-identified international application.

On 19 October 2006, applicant filed a petition under 37 CFR 1.10(d). In a decision dated 14 November 2006, applicant's petition was dismissed without prejudice.

On 22 November 2006, applicant filed "Request for Renewed Decision on Petition and Response to Invitation to Correct Priority Claim," which included, among other things, a copy of the Customer Receipt of the "Express Mail" mailing label #EV531712509US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" and shows an illegible "Date In" date. The label has a USPS postal stamp dated JUL 27, 2006, Grand Central Station, New York.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 July 2005. Specifically, the "Express Mail" label number ("#EV531712509US") appears on "Express Mail" certificate on the Transmittal Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal

Letter together such that it is clear that the international application was deposited on 27 July 2006.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 27 July 2006. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 27 July 2006 is **GRANTED**.

The Invitation to Correct Priority Claim (form PCT/RO/110) mailed 10 October 2006 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 27 July 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 27 July 2006; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
Attorney-Advisor
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14 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Samuel Weiner
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1180 Avenue of the Americas
New York, New York 10036

In re Application of :
AUTRONIC PLASTICS, INC. :
PCT No.: PCT/US06/29872 : DECISION ON PETITION
Int. Filing Date: 31 July 2006 : UNDER 37 CFR 1.10
Priority Date: 27 July 2005 :
Attorney Docket No.: P 2613-90 :
For: ANTI-THEFT SECURITY DEVICE AND :
PERIMETER DETECTION SYSTEM

This decision is issued in response to applicants' "Request for Corrected International Filing Date and Response to Invitation to Correct Priority Claim" filed 19 October 2006, which is being treated as a petition under 37 CFR 1.10. Applicant requests that the above-identified application be accorded an international filing date of 27 July 2006.

BACKGROUND

The United States Receiving Office accorded an international filing date of 31 July 2006 to the above-identified international application.

On 19 October 2006, applicant filed the present petition which included: a postcard receipt dated 31 July 2006, a Track and Confirm sheet from the USPS website; and a Transmittal Letter to the United States Receiving Office. Petitioner requests a correction of the international filing date to 27 July 2006 due to an error made by the United States Patent and Trademark Office.

DISCUSSION

Petitioner has not submitted a copy of the "Express Mail" customer receipt bearing the same "Express Mail" mailing number as identified in the certificate under 37 CFR 1.10 that accompanied the application papers showing that the original papers were deposited as "Express Mail" with the United States Postal Service on 27 July 2006. Thus, a discrepancy has not been shown to exist as required by 37 CFR 1.10(c).

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A review of the application papers filed in the present application reveals that Express Mail label "EV605031394US" was placed on the Transmittal Letter (PTO-1382) prior to mailing thereof. The Express Mail label no. "EV605031394US" present in the application file shows an illegible "date in" date. The postcard receipt presented with the present petition indicates a receipt date of 31 July 2006. However, information obtained from the United States Postal Service (USPS) Express Mail database shows that "EV605031394US" was accepted by the USPS on 27 July 2006.

In view of the conflict between the USPS Express Mail database and United States Patent and Trademark record, it would not be appropriate to grant applicant's request to accord the present application a 27 July 2006 filing date at this time. Moreover, no corroborative evidence that came into being after the deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS has been presented. Therefore, petitioner has not provided a satisfactory showing under 37 CFR 1.10(d).

Accordingly, it is inappropriate, on the present record, to accord a filing date of 27 July 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.10(c) and 1.10(d) requesting that a filing date of 27 July 2006 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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15 DEC 2006

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In re Application of :
AUTRONIC PLASTICS, INC. :
PCT No.: PCT/US06/29872 : DECISION ON PETITION
Int. Filing Date: 27 July 2006 : UNDER 37 CFR 1.10
Priority Date: 27 July 2005 :
Attorney Docket No.: P 2613-90 :
For: ANTI-THEFT SECURITY DEVICE AND :
PERIMETER DETECTION SYSTEM

This decision is issued in response to applicant's "Request for Renewed Decision on Petition and Response to Invitation to Correct Priority Claim" filed 22 November 2006, which is being treated as a petition under 37 CFR 1.10. Applicant requests that the above-identified application be accorded an international filing date of 27 July 2006.

BACKGROUND

The United States Receiving Office accorded an international filing date of 31 July 2006 to the above-identified international application.

On 19 October 2006, applicant filed a petition under 37 CFR 1.10(d). In a decision dated 14 November 2006, applicant's petition was dismissed without prejudice.

On 22 November 2006, applicant filed "Request for Renewed Decision on Petition and Response to Invitation to Correct Priority Claim," which included, among other things, a copy of the Customer Receipt of the "Express Mail" mailing label #EV531712509US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" and shows an illegible "Date In" date. The label has a USPS postal stamp dated JUL 27, 2006, Grand Central Station, New York.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 July 2005. Specifically, the "Express Mail" label number ("#EV531712509US") appears on "Express Mail" certificate on the Transmittal Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal

Letter together such that it is clear that the international application was deposited on 27 July 2006.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 27 July 2006. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 27 July 2006 is **GRANTED**.

The Invitation to Correct Priority Claim (form PCT/RO/110) mailed 10 October 2006 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 27 July 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 27 July 2006; and (3) forwarding a copy of this decision to the International Bureau.

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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In re Application of GENIZON BIOSCIENCES :
PCT Application No.: PCT/US06/30281 :
Int. Filing Date: 02 August 2006 : DECISION
Priority Date Claimed: none :
Attorney Docket No.: GENI01700WO :
For: GENEMAP OF THE HUMAN GENES :
ASSOCIATED WITH PSORIASIS :

This is in response to applicant's "Petition for Acceptance of Sequence Listing Tables in ASCII Under 37 C.F.R. §§ 1.182" filed 16 October 2006.

BACKGROUND

On 02 August 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission included a sequence listing and related tables on electronic media.

On 11 September 2006, this Office mailed a notification which stated that the tables are not accepted by the RO/US under PCT Administrative Instructions (AI) § 801.

On 16 October 2006, applicant filed the present petition under 37 CFR 1.182. The requisite $400.00 petition fee under 37 CFR 1.17(f) will be charged to Deposit Account No. 50-1283.

DISCUSSION

Although the RO/US has not notified that International Bureau (IB) that it is prepared to accept applications filed under Administrative Instructions (AI) § 801(a), the RO/US will accept applications in a particular case pursuant to AI § 801(c) provided that the guidelines set forth in MPEP 1823.02 are followed.

The tables submitted with the petition are in compliance with the guidelines set forth in MPEP 1823.02 are followed and are accompanied by a statement that the tables are identical to those submitted on 02 August 2006.

CONCLUSION

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

This application is being returned to the RO/US for further processing in accordance with this decision, including forwarding a copy of this decision to the International Bureau (IB).

Bryan Lin

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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
PGI POLYMER, INC.	:	
PCT No.: PCT/US06/30897	:	DECISION ON PETITION
Int. Filing Date: 07 August 2006	:	
Priority Date: 05 August 2005	:	
Attorney Docket No.: PGI6044P5550	:	
For: DURABLE FLAME-RETARDANT NONWOVEN FABRIC	:	

This decision is in response to applicant's "PETITION TO VACATE FORM PCT/RO/117" filed in the United States Patent and Trademark Office (USPTO) on 28 December 2006. No petition fee is required.

BACKGROUND

On 07 August 2006, applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 05 August 2005.

On 16 October 2006, the United States Receiving Office (US/RO) mailed applicant a "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) according an international filing date of 07 August 2006.

On 18 October 2006, applicant was mailed an "Invitation to Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133).

On 05 December 2006, applicant was mailed a "Notification That International Application Considered to be Withdrawn" (Form PCT/RO/117).

On 28 December 2006, applicant filed the present petition urging that applicant had provided authorization to charge fees to their correct deposit account in a response filed on 17 November 2006 and requesting that the form PCT/RO/117 be withdrawn.

DISCUSSION

A review of the application file finds applicant's 17 November 2006 filing contained therein. As such, it is proper to grant applicant's petition at this time. The"Notification That

International Application Considered to be Withdrawn" (Form PCT/RO/117) mailed 28 December 2006 is hereby **VACATED**.

CONCLUSION

Applicant's petition is **GRANTED**.

The application is being returned to the United States Receiving Office for continued processing in accordance with this decision. Namely, the reinstatement of the international application and charging of all relevant fees to deposit account number 23-0785 as authorized.

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12 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
LUNDQUIST, et al. :
PCT No.: PCT/US06/31387 : DECISION ON PETITION
Int. Filing Date: 10 August 2006 :
Priority Date: 11 August 2005 : UNDER 37 CFR 1.10
Atty. Docket No.: 105-000410PC :
For: METHODS AND SYSTEMS FOR MONITORING: MULTIPLE OPTICAL SIGNALS FROM A SINGLE SOURCE :

This decision is in response to applicant's "Petition to Correct Incorrectly Entered Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 13 December 2006. The petition is being treated as a petition under 37 CFR 1.10(c) to correct the international filing date to 10 August 2006. No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 11 August 2005.

The United States Receiving Office (US/RO) accorded the application an international filing date of 11 August 2006. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 09 November 2006.

On 13 December 2006, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 10 August 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 11 August 2006.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other

official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm database shows acceptance by the USPS on "August 10, 2006, 4:53 pm, Alameda, CA 94501." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 09 November 2006 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision, that is, for preparing and mailing of a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 10 August 2006.

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26 JUL 2007

EDWARDS, ANGELL, PALMER & DODGE LLP
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In re Application of
BIOTROVE, INC. et al.
PCT No.: PCT/US06/31534
Int. Filing Date: 10 August 2006
Priority Date: 11 August 2005
Attorney's Docket No.: 65886WO (43382)
For: Apparatus For Assay, Synthesis And Storage, And Methods Of manufacture, Use, And Manipulation Thereof

DECISION ON

PETITION UNDER

37 CFR 1.10(c)

This decision is in response to applicant's "Request Under Rule 92bis.1 For The International Application," filed 08 June 2007, which is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 10 August 2006 to the above-identified application.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 11 August 2006 to the above-identified application.

On 03 October 2006, United States Receiving Office (RO/US) mailed the Notification of the International Application and of the International Filing Date (Form PCT/RO/105) and the Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102).

On 08 June 2007, applicant filed the present petition including, *inter alia*, a copy of the Customer Receipt of the United States Postal Service (USPS) "Express Mail" label showing Express Mail label number "EV756267613US" and a "Date-In" of 10 August 2006, a copy of the Transmittal Letter to the RO/US (PTO-1382) and, a copy of applicants' postcard receipt showing a date stamp of 11 August 2006.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" mailing on 10 August 2006. Specifically, the Customer receipt of the USPS "Express Mail" label shows a "Date-In" of 10 August 2006. Further, the "Express Mail" label number ("EV738974875US ") appears on the Customer receipt of the USPS "Express Mail" label and the copy of the Transmittal Letter. Therefore, the indication of the "Express Mail" label number appearing on the Transmittal Letter ties the Customer receipt of the USPS "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 10 August 2006.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 10 August 2006 is **GRANTED.**

The Notification of the International Application and of the International Filing Date (Form PCT/RO/105) mailed 03 October 2006 is hereby **VACATED**.

This application is being forwarded to the United States Receiving Office for further processing. A corrected PCT/RO/105 and front page of the Request will be mailed to the International Bureau.

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CC:
Attachments:

Corrected PCT/RO/105
Corrected front page of Request Form PCT/RO/101

International Bureau
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UNITED STATES PATENT AND TRADEMARK OFFICE

23 MAR 2010

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In re Application of:
TEXAS INSTRUMENTS INCORPORATED
PCT No.: PCT/US2006/032244
International Filing Date: 15 August 2006
Priority Date Claimed: 15 August 2005
Atty Docket No.: TI-39912WO
For: SEMICONDUCTOR ASSEMBLY AND PACKAGIN FOR HIGH CURRENT AND LOW INDUCTANCE

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Petition Transmittal Of Formal Drawings" filed 16 January 2009, treated herein as a petition under 37 CFR 1.181 to confirm the inclusion of three sheets of drawings with the original application materials filed on the international filing date, 15 August 2006. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." Box No. IX of the Request indicated that the international application contained three sheets of drawings.

The international application was published on 22 February 2007. The published international application did not include the three sheets of drawings.

On 16 January 2009, applicant filed the petition considered herein under 37 CFR 1.181. The petition asserts that the attached three sheets of drawings were included in the international application as filed and requests that the record be corrected accordingly.

DISCUSSION

The USPTO application file for the present application does not contain any drawings. However, the application file does include an internal inventory list indicating that drawings were included with the application as filed. In addition, applicant has provided with the present petition a copy of a return postcard that itemizes the international application, including three sheets of drawings, and bears a USPTO receipt stamp dated 15 August 2006.

Based on applicant's statements in the present petition and the return postcard that itemizes the international application materials (including three sheets of drawings) and bears a USPTO receipt stamp dated 15 August 2006, it is concluded that the international application materials filed on 15 August 2006 included the three sheets of drawings, copies of which are attached to the present petition. Accordingly, the three sheets of drawings accompanying the present petition (but missing from the application file and the international publication) are appropriately treated as having been included in the original international application materials filed on 15 August 2006.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The three sheets of drawings accompanying the present petition will be treated as having been included in the original international application materials filed on 15 August 2006.

A copy of this decision and the three sheets of drawings will be forwarded to the International Bureau (IB).

It is noted that the present petition requests republication of the international application, with the drawings included. However, any request for republication of an international application must be submitted directly to the IB for its consideration. The request for republication has therefore not been considered in this decision.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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04 DEC 2006

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In re Application of
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
PCT No.: PCT/US06/32645
Int. Filing Date: 22 August 2006
Priority Date: 19 August 2005
Agent's File Reference: 1279-440C1PC
For: BLOCK COPOLYOLEFINS POSSESSING A TAPERED STRUCTURE

DECISION UNDER
37 CFR 1.10(d)

This decision is in response to applicants' communication filed 20 September 2006, which requests that the filing date of International Application No. PCT/US06/32645 be corrected from 22 August 2006 to 18 August 2006. The request has been treated as a petition under 37 CFR 1.10(d). No petition fee is due. The petition is **DISMISSED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 13 October 2006), International Application No. PCT/US06/32645 was accorded a filing date of 22 August 2006 by the United States Receiving Office (RO/US). The "Addressee Copy" of "Express Mail" label no. EL537834196US present in the application file shows a "Date-In" of 22 August 2006.

On 20 September 2006, the present petition was filed requesting that International Application No. PCT/US06/32645 be accorded a filing date of 18 August 2006 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(d) provides that:

> *"Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS , may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:*
>
> *(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;*

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition has been filed promptly. 37 CFR 1.10(d)(1). In addition, a review of the original application papers reveals that "Express Mail" Label No. EL537834196US was placed on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(d)(2). It is noted that applicants have provided an affidavit from USPS manager Charles Sherwood in support of the present petition. However, the affadavit does not set forth a factual basis for Mr. Sherwood's conclusion that "Express Mail" Label No. EL537834196US was picked up on 18 August 2006. Mr. Sherwood indicates that he "reviewed the Express Mail receipt" but it is unclear how the receipt could establish that the Express Mail package in question was deposited in the Express Mail Box prior to the last scheduled pick-up. It is further noted that the "Track & Confirm" database of the USPS confirms that the date of deposit is 22 August 2006. Accordingly, the requirements under 37 CFR 1.10(d)(3) have not been satisfied. Further evidence from the USPS is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.10(d) is **DISMISSED without prejudice.**

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

Any further correspondence with respect to this matter should be directed to the Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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04 DEC 2006

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In re Application of
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
PCT No.: PCT/US06/32645
Int. Filing Date: 22 August 2006
Priority Date: 19 August 2005
Agent's File Reference: 1279-440C1PC
For: BLOCK COPOLYOLEFINS POSSESSING A TAPERED STRUCTURE

DECISION UNDER
37 CFR 1.10(d)

DOCKETED FOR
1-4-07
2-4-07 RES

This decision is in response to applicants' communication filed 20 September 2006, which requests that the filing date of International Application No. PCT/US06/32645 be corrected from 22 August 2006 to 18 August 2006. The request has been treated as a petition under 37 CFR 1.10(d). No petition fee is due. The petition is **DISMISSED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 13 October 2006), International Application No. PCT/US06/32645 was accorded a filing date of 22 August 2006 by the United States Receiving Office (RO/US). The "Addressee Copy" of "Express Mail" label no. EL537834196US present in the application file shows a "Date-In" of 22 August 2006.

On 20 September 2006, the present petition was filed requesting that International Application No. PCT/US06/32645 be accorded a filing date of 18 August 2006 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(d) provides that:

> *"Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:*
>
> *(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;*

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition has been filed promptly. 37 CFR 1.10(d)(1). In addition, a review of the original application papers reveals that "Express Mail" Label No. EL537834196US was placed on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(d)(2). It is noted that applicants have provided an affidavit from USPS manager Charles Sherwood in support of the present petition. However, the affadavit does not set forth a factual basis for Mr. Sherwood's conclusion that "Express Mail" Label No. EL537834196US was picked up on 18 August 2006. Mr. Sherwood indicates that he "reviewed the Express Mail receipt" but it is unclear how the receipt could establish that the Express Mail package in question was deposited in the Express Mail Box prior to the last scheduled pick-up. It is further noted that the "Track & Confirm" database of the USPS confirms that the date of deposit is 22 August 2006. Accordingly, the requirements under 37 CFR 1.10(d)(3) have not been satisfied. Further evidence from the USPS is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.10(d) is **DISMISSED without prejudice.**

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

Any further correspondence with respect to this matter should be directed to the Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450.

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12 MAR 2007

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In re Application of
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
PCT No.: PCT/US06/32645
Int. Filing Date: 21 August 2006
Priority Date: 19 August 2005
Agent's File Reference: 1279-440C1PC
For: BLOCK COPOLYOLEFINS POSSESSING A TAPERED STRUCTURE

DECISION ON RENEWED PETITION UNDER 37 CFR 1.10(d)

This decision is in response to applicants' communication filed 02 February 2007, which requests that the filing date of International Application No. PCT/US06/32645 be corrected. The request has been treated as a petition under 37 CFR 1.10(d). No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

On 20 September 2006, applicants filed a petition under 37 CFR 1.10(d) requesting that the international filing date for the present application be corrected from 22 August 2006 to 18 August 2006.

On 04 December 2006, the USPTO rendered a decision dismissing the 20 September 2006 petition under 37 CFR 1.10(d) on the grounds that the affadavit of Charles Sherwood did not set forth a factual basis for Mr. Sherwood's conclusion that "Express Mail" Label No. EL537834196US was picked up on 18 August 2006 and that further evidence from the United States Postal Service (USPS) is required to establish 18 August 2006 as the international filing date.

DISCUSSION

A review of the evidence submitted by applicants in support of the requested 18 August 2006 date of deposit does not overcome the objections noted in the decision mailed 04 December 2006. However, the affadivit of USPS supervisor Mark Tamase does provide sufficient corroborating evidence that "Express Mail" Label No. EL537834196US was deposited on 21 August 2006 and that the 22 August 2006 date of deposit as indicated in the "Track & Confirm" database of the USPS is a result of irregular handling. Therefore, the totality of the evidence shows that the correct date of deposit for "Express Mail" Label No. EL537834196US is 21 August 2006.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.10(d) is **GRANTED.**

The "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 13 October 2006) is hereby **VACATED.** Additionally, the first page of the PCT Request is being corrected to reflect a 21 August 2006 international filing date.

A copy of this decision is being sent to the International Bureau.

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14 SEP 2007

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In re Application of :
SPOT RUNNER, INC. :
PCT No.: PCT/US06/33243 : DECISION UNDER
Int. Filing Date: 24 August 2006 : 37 CFR 1.181
Priority Date: 26 August 2005 :
Agent's File Reference: 31944-701601 :
For: SYSTEMS AND METHODS FOR MEDIA :
PLANNING, AD PRODUCTION, AD :
PLACEMENT AND CONTENT
CUSTOMIZATION

Applicants' 05 June 2007 communication is being treated as a petition under 37 CFR 1.181 requesting that the copy of proposed replacement drawing figures no. 1-24 (drawing sheets nos. 1/30-30/30) and the abstract filed with the present petition be accepted in lieu of the originals filed on 14 December 2006. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 24 August 2006, applicants filed international application PCT/US06/33243, which claimed priority to a U.S. application filed 26 August 2005.

On 04 December 2006, The United States Receiving Office (RO/US) mailed an "INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION" (Form PCT/RO/106) informing applicants that new drawing figures and an abstract were required.

On 05 June 2007, applicants filed the present petition forwarding a copy of proposed replacement drawing figures nos. 1-24 (drawing sheets nos. 1/30-30/30) with abstract and a copy of the return receipt postcard indicating receipt of proposed replacement drawing sheets nos. 1/30-30/30 on 14 December 2006.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicants have provided sufficient evidence that proposed replacement drawing figures nos. 1-24 (drawing sheets nos. 1/30-30/30) and abstract included with the present petition were filed on 14 December 2006. The petition indicates that the copies of drawing figures nos. 1-24 and abstract attached thereto are true copies of the originals filed on 14 December 2006. The copy of the return receipt postcard itemizes "Drawings 30 pages" and "Abstract 1 page". Accordingly, the copies of drawing figures nos. 1-24 (drawing sheets nos. 1/30-30/30) and abstract filed with the present petition may properly be **ACCEPTED** as having been filed on **14 December 2006.**

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED.**

The present application is being forwarded to the RO/US for the treating of drawing figures nos. 1-24 (drawing sheets nos. 1/30-30/30) and the abstract filed with the present petition as having been filed on 14 December 2006 and to forward copies of drawing sheets nos. 1/30-30/30 and the abstract to the International Bureau.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

(571) 272- 3284

JSF/RC:jf

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34 chemin des Colombettes
1211 Geneve 20 (SUISSE)

12 JAN 2007

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 E. Kleve
1103 24th Ave. S.
Grand Forks, ND 58201

In re Application of :
KLEVE, Robert E. :
PCT No.: PCT/US2006/033895 :
Int. Filing Date: 30 August 2006 : **DECISION**
Priority Date: None :
Docket No.: None :
For: KEYBOARD :

This decision is in response to the papers filed via facsimile on 14 December 2006 requesting that the late payment fee of $300.00 be waived.

BACKGROUND

On 30 August 2006, applicant filed PCT/US2006/033895 which included payment of certain fees totaling $1,686.00.

On 20 September 2006, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) indicating that additional fees of $892.00 were required.

On 06 November 2006, the RO/US mailed an Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133) indicating that the total unpaid fees of $892.00 and a late payment fee of $446.00 and for a total of $1,338.00 was required within one month.

On 14 November 2006, the RO/US mailed a corrected Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133) indicating that the total unpaid fees of $192.00 and a late payment fee of $300.00 and for a total of $492.00 was required within one month. The search fee had been adjusted back to $300.00.

On 13 December 2006, applicant paid the $492.00 in fees including the late payment fee.

On 14 December 2006, applicant requested a refund of the $300.00 late payment fee.

DISCUSSION

A review of the above-identified international application shows that a declaration of inventorship pursuant to PCT Rule 4.17(iv) was submitted with the Request indicating that the search of a prior U.S. application No 11/045,905 be used but that no priority is claimed. As such, applicant is entitled to the reduced search fee of $300.00.

Nonetheless, applicant still had unpaid fees totaling $192.00 when the corrected Form PCT/RO/133 was mailed on 14 November 2006. Therefore, a late payment fee is appropriate. *See* PCT Rule 16*bis*.2. Applicant is not entitled to a waiver of the late payment fee of $300.00.

CONCLUSION

For the reason discussed above, applicant's petition for a waiver of the late payment fee is hereby **DISMISSED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
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GEORGE REARDON
3356 STATION COURT
LAWRENCEVILLE GA 30044-5674

In re Application of	:	
STEWART et al.	:	DECISION
PCT No.: PCT/US06/33959	:	
Int. Filing Date: 31 August 2006	:	
Priority Date: None	:	
Attorney Docket No.: 03-0010	:	
For: ADJUSTABLE CINCHING DEVICE	:	

This communication is in response to applicants' submissions filed 31 August 2006 and 13 February 2007, which have been properly treated as a petition under 37 CFR 1.10(e).

BACKGROUND

On 31 August 2006, applicants filed a Request, description, claims, abstract, and drawings in the United States Receiving Office (RO/US). These papers were accorded an international filing date of 31 August 2006.

On 31 August 2006, applicants also filed a letter "Re: Reconstruction of file for PCT Request" which stated that the copies of the papers mentioned above were true copies of papers originally filed 15 November 2005 by Express Mail. The letter was accompanied by: a copy of the Customer Copy of Express Mail mailing label number EQ299290195US which shows a "Date Accepted" of 15 November 2005 and a mailing address of "Mailstop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450"; a copy of a printout from the United States Postal Service (USPS) Track & Confirm Database for Express Mail mailing label number EQ29929195US indicating that the item was delivered in Alexandria, VA on 17 November 2005; and a letter from the USPS showing the scanned image of the recipient information for the item.

On 25 October 2006, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 31 August 2006.

On 13 February 2007, applicants filed via facsimile transmission a request to change the filing date from 31 August 2006 to 15 November 2005. This request and the letter filed 31 August 2006 have been considered together and have been properly treated as a petition under 37 CFR 1.10(e).

DISCUSSION

37 CFR 1.10(e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner 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 Commissioner, 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.

Applicants have satisfied items (1) and (4) above.

Items (2) and (3) have not been satisfied. The number of the Express Mail mailing label does not appear on any of the papers filed 31 August 2006. It is noted that no Transmittal Letter appears in these papers. Attention is directed to MPEP § 513, which states in part, "if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) through (e), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) or 1.10(e)." Accordingly, relief is not granted on the petition under 37 CFR 1.10(e). MPEP § 513 also states that:

> Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). [case citations omitted]

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.10(e) is **DISMISSED**

without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(e)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

28 JUL 2009

Commissioner for Patents
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Kenneth J. Lukacher
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In re Application of
RAH COLOR TECHNOLOGIES LLC
PCT No.: PCT/US2006/033975
Int. Filing Date: 31 August 2006
Priority Date: 31 August 2005
Attorney's Docket No.: ML-0454CIPPCT
For: COLOR CALIBRATION OF COLOR IMAGE RENDERING DEVICES

DECISION

This decision is in response to applicant's "Letter Requesting New International Search Report and Written Opinion" filed with the United States International Searching Authority (ISA/US) on 24 September 2008. This petition is considered under 37 CFR 1.181. No fee is required.

BACKGROUND

On 21 July 2008, an Invitation to Pay Additional Fees and, Where Applicable, Protest Fee (Form PCT/ISA/206) was mailed indicating that there was three sets of inventions in the subject application. Applicant was invited to pay fees of $2,000.00 for the additional inventions.

On 11 August 2008, applicant submitted a "Response to Invitation to Pay Additional Fees" along with a check of $2,000.00 to pay the additional fees.

On 16 September 2008, an International Search Report (Form PCT/ISA/210) and a Written Opinion of the International Searching Authority (Form PCT/ISA/237) was established for claims 1-7 and 15-22 only.

On 24 September 2008, the subject petition was filed requesting reexamination.

DISCUSSION

Applicant timely responded to the Form PCT/ISA/206 with a check for the $2,000.00 in additional fees. The response and the fees are located in the subject application and financial records.

However, the ISA/US failed to act upon this response. As such, the International Search Report (ISR) and Written Opinion considered only claims 1-7 and 15-22.

This was inappropriate. A new ISR and Written Opinion considering all claims in the application is required.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/ISA/210 and Form PCT/ISA/237 mailed 16 September 2008 are both **VACATED**.

This application is being forwarded to the ISA/US for reexamination of all claims. A copy of this decision will be forwarded to the International Bureau.

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cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

28 JUL 2009

Commissioner for Patents
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DANIEL CHALKER
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In re Application of :
FORET PLASMA LABS, LLC :
PCT No.: PCT/US09/00937 : DECISION ON PETITION
Int. Filing Date: 14 February 2009 :
Priority Date: 13 February 2008 : UNDER 37 CFR 1.10(d)
Atty. Docket No.: FPLB: 2010 :
For: SYSTEM, METHOD AND APPARATUS FOR :
COUPLING A SOLID OXIDE HIGH :
TEMPERATURE....TO A PLASMA ARC TORCH :

This decision is in response to applicant's "Request to Correct Filing Date or Restore The Right to Priority" filed 13 July 2009 in the United States Patent and Trademark Office (USPTO). The petition is being considered pursuant to 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

Applicant filed a PCT Request with the United States Receiving Office (RO/US). The international application claimed priority to an earlier application filed in the United States on 13 February 2008.

The United States Receiving Office (US/RO) accorded the application an international filing date of 14 February 2009. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 04 March 2009.

On 13 July 2009, applicant filed the present petition seeking an international filing date of 13 February 2009.

DISCUSSION

37 CFR 1.10(a) states:

(1)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.

(2) 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).

Applicant has not included a copy of the Express Mail mailing label showing the "date-in" date. The United States Post Office (USPS) track and confirm database indicates that the Express Mail mailing was deposited on 14 February 2009. As such, it was appropriate for the RO/US to accord the present application an international filing date of 14 February 2009.

37 CFR 1.10(d) 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 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 filed papers; and

3) The petition includes a showing 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.

Applicant has satisfied items 1 and 2.

Regarding item 3, applicant has not provided any evidence from the USPS to corroborated applicant's contention that the Express Mail mailing in question should have been accorded a "date-in" date of 14 February 2009.

As applicant has not provided any evidence from the USPS showing that a "date-in" date of 14 February 2009 should have been accorded, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is

required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Derek A. Putonen
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Attachment: Form PCT/RO/158

0 1 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID B. TINGEY
KIRTON & MCCONKIE
1800 EAGLE GATE TOWER
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SALT LAKE CITY UT 84111

In re Application of	:	
COMPWHITE, LLC	:	DECISION
PCT No.: PCT/US06/34279	:	
Int. Filing Date: 01 September 2006	:	
Priority Date: 01 September 2005	:	
Attorney's Docket No.: 9008.7	:	
For: SYSTEMS AND METHODS FOR	:	
ENHANCING THE APPEARANCE OF TEETH	:	

This decision is in response to applicant's "RESPONSE TO PCT COMMUNICATION OF 06 FEBRUARY 2007 REGARDING CORRECTION OF PRIORITY CLAIM" filed 25 June 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 24 November 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 01 September 2006.

On 06 February 2007, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) requesting clarification of the priority date for priority document 11/514,680. It was not clear whether the filing date of the application was 01 September 2006 or 31 August 2006.

On 25 June 2007, applicant submitted the instant "RESPONSE TO PCT COMMUNICATION OF 06 FEBRUARY 2007 REGARDING CORRECTION OF PRIORITY CLAIM", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition under 37 CFR 1.181 requests that the date for priority document 11/514,680 be indicated as 31 August 2006.

A decision was mailed in US application number 11/514,680 on 14 September 2007 granting applicant's petition to change the filing date from 01 September 2006 to 31 August 2006. Accordingly, the correct filing date for priority document 11/514,680 is 31 August 2006. The COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE mailed 30 January 2007 is hereby VACATED.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**. The correct filing date for priority document 11/514,680 is 31 August 2006.

For the reasons set forth above, the COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE mailed 06 February 2007 is VACATED.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to PCT Central Files for storage.

Daniel Stemmer
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PCT Legal Affairs
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Legal Administration
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CC: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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25 APR 2007

James Demers
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In re Application of :
NANO CLUSTER DEVICES LTD. :
PCT No.: PCT/US06/34452 : DECISION ON PETITION
Int. Filing Date: 31 August 2006 : UNDER 37 CFR 1.10
Priority Date: None : AND
Attorney Docket No.: 6612-71 : 37 CFR 1.181
For: ELECTROSTATIC DISCHARGE :
PROTECTION USING CONDUCTIVE
NANOPARTICLES

This decision is issued in response to applicant's "Petition for Filing Date under 37 CFR 1.10(h) or 1.181(a)(3)" filed 20 October 2006. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 31 August 2006 to the above-identified international application.

On 20 October 2006, applicant filed the petition considered herein. The petition states that the filing date for application should be corrected to 30 August 2006, in that, applicant's representative was prevented from filing the above-identified application on 30 August 2006 due to an interruption of United States Express Mail service.

DISCUSSION

Applicant presently requests that the USPTO accord the above-identified international application a filing date of 30 August 2006. A review of the file reveals that the RO/US correctly accorded an international filing date of 31 August 2006 pursuant to 37 CFR 1.10(a). In the subject petition, petitioner argues that applicant's representative was prevented from filing the above-identified application on 30 August 2006 due to an interruption of United States Express Mail service.

37 CFR 1.10(h) provides:

(h)Any person who attempts to mail 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 has the correspondence refused by an employee of the USPS due to an interruption or emergency in "Express Mail" service, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:
>
> > (1) The petition is filed promptly after the person becomes aware of the refusal 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 attempted mailing by "Express Mail";
> > (3) The petition includes the original correspondence or a copy of the original correspondence showing the number of the "Express Mail" mailing label thereon; and
> > (4) The petition includes a statement by the person who originally attempted to deposit the correspondence with the USPS which establishes, to the satisfaction of the Director, the original attempt to deposit the correspondence and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date. The Office may require additional evidence to determine if the correspondence was refused by an employee of the USPS due to an interruption or emergency in "Express Mail" service.

To obtain relief under 37 CFR 1.10(h), the correspondence must be "refused by an employee of the USPS." MPEP §513 states this procedure does not apply because a Post Office facility is closed. Accordingly, relief cannot be granted under 37 CFR 1.10(h).

Petitioner states in the present petition that he was prevented from filing the above-identified application on 30 August 2006 due to an interruption of United States Express Mail service. However, petitioner has not presented sufficient proof that the correspondence was refused by an employee of the USPS due to an interruption or emergency in "Express Mail" service. Further, petitioner has presented a statement from Ronald Hart, Customer Service Manager of FDR Station. Mr. Hart's statement appears to attest to the hours of FDR Station, but fails to include evidence that an interruption or emergency in "Express Mail" service occurred. Accordingly, the requirements under 37 CFR 1.10(h) have not been satisfied.

Additionally, petitioner seeks relief under 37 CFR 1.181(a)(3). The requirements for establishing a filing date via a USPS deposit is set forth under 35 U.S.C. 21(a) and 37 CFR 1.10. 37 CFR 1.181(a)(3) does not provide an alternative basis for according a filing date on the basis of an attempted USPS deposit. Accordingly, the petition under 37 CFR 1.181is dismissed. It is also noted that the USPS website indicates that the post office in question closes at 8:00p.m. The statement of Mr. Hart, a manager of the FDR station, indicating that only "prepaid" express mail deposits are accepted until midnight suggests that the service is in effect a drop box. As stated in 37 CFR 1.10(b), persons who deposit correspondence in an Express Mail drop box do so at the risk of not receiving the desired "date-in" date. A paper or fee placed in an Express Mail drop box after the last pickup is

considered to be deposited as of the "date-in" date on the Express Mail label. See MPEP 513.

CONCLUSION

Applicant's petition under 1.10(h), requesting that the international application be accorded an international filing date of 30 August 2006, is **DISMISSED** without prejudice.

The international filing date remains 31 August 2006.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of :
SKYWORKS SOLUTIONS, INC. :
PCT No.: PCT/US06/35092 :
International Filing Date: 10 May 2006 :
Priority Date: 24 May 2005 : DECISION ON PETITION
Attorney Docket No.: SKYWKS.0047P :
For: METHOD AND APPARATUS FOR LOOP FILTER SIZE REDUCTION :

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.10(e) to Assign Application Earlier Filing Date" filed 02 February 2007, which is being treated as a petition to reconstruct the international application and accord an international filing date of 10 May 2006. No petition fee is required.

BACKGROUND

On 10 May 2006, applicant allegedly submitted a PCT application which included: 4 page Request (PCT/RO/101); 19 pages of descriptions; 6 pages of claims; 1 page abstract; 8 pages of drawings; 6 drawing sheets, fee calculation sheet; a check in the amount of $1,778; and a return postcard.

On 08 September 2006, applicant filed "Petition to Assign Application Earlier Filing Date" which included a copy of the international application filed on 10 May 2006. (The papers were given serial number PCT/US06/35092.) In a decision dated 05 December 2006, applicant's petition under 37 CFR 1.10(e) was dismissed without prejudice.

On 02 February 2007, applicant filed the present "Renewed Petition under 37 CFR 1.10(e) to Assign Application Earlier Filing Date."

DISCUSSION

The application file does not contain the materials purportedly filed by United States Express Mail on 10 May 2006. In order to confirm the 10 May 2006 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.10(e), which states the following:

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 Commissioner 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 "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 Commissioner, 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.

Applicant has satisfied items (1) through (4). The evidence of record provided in accordance with 37 CFR 1.10(e) is sufficient to establish with reasonable certainty that the international application was deposited with the United States Postal Service as an "Express Mail" mailing on 10 May 2006. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 10 May 2006. Accordingly, in view of all of the facts particular to this application, the granting of the relief requested is warranted.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(e) requesting that the USPTO accord an international filing date of 10 May 2006 to the international application is **GRANTED**.

This application is being returned to the US Receiving Office to processing in accordance with this decision, that is, for: (1) according the international application a date

of receipt of **10 May 2006**; (2) forwarding notice of the 10 May 2006 international filing date to the International Bureau; and (3); forwarding a copy of this decision to the International Bureau.

Anthony Smith

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United States Patent and Trademark Office

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31 JAN 2007

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NEW YORK, NY 10020

In re Application of
AMGEN FREMONT INC.
PCT No.: PCT/US06/35096
Int. Filing Date: 06 September 2006
Claimed Priority Date: 07 September 2005
Attorney's Docket No.: 000659065WO1
For: Human Monoclonal Antibodies To Activin Receptor-Like Kinase-1

DECISION ON PETITION

This is in response to applicants' petition under 37 CFR 1.10(c) filed on 24 January 2007.

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 28 November 2006, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 08 September 2006 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 06 September 2006, rather than 08 September 2006 as indicated on Form PCT/RO/105.

Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with 37 CFR 1.10(c)(1).

The petition complies with 37 CFR 1.10(c)(2) because an Express Mail mailing label number, EV329694355US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application (the original copy of which is present in the application file).

With regard to 37 CFR 1.10(c)(3), counsel has provided a copy of the Customer Copy of the Express Mail mailing label, number EV329694355US, which shows a "date-in" of "9 6 06," as well as a USPS plug stamp dated "SEP 6 2006." The original "Addressee Copy" of the Express Mail mailing label at issue is present in the application file, and corroborates the "date-in" of "9 6 06." Based on the totality of the evidence of record, it would be appropriate to conclude

that 37 CFR 1.10(c)(3) has been satisfied. Accordingly, the Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) mailed on 28 November 2006 is hereby **VACATED**.

DECISION

Applicants' petition is **GRANTED**, for the reasons described *supra*.

A new Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) and a copy of the first page of the PCT Request (Form PCT/RO/101) bearing the corrected international filing date of **06 September 2006** are attached hereto.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

enc.: Form PCT/RO/105
Form PCT/RO/101, first page

14 AUG 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

James C. Wray
1493 Chain Bridge Road, Suite 300
McLean, VA 22101

In re Application of	:	
UNIVERSITY OF HAWAII	:	
PCT No.: PCT/US06/35743	:	DECISION ON
Int. Filing Date: 13 September 2006	:	REQUEST FOR REFUND
Priority Date: 13 September 2005	:	UNDER 37 CFR 1.446
Agent's File Reference: UHI	:	
For: DISPOSABLE ELECTRODE SYSTEM FOR DETECTION OF SELECTED NUCLEIC ACID SEQUENCES	:	

This decision is in response to applicants' communication filed 13 June 2008. Applicants' communication has been treated as a petition under 37 CFR 1.446 for the refund of the search fee in the amount of $1,000. The request is **REFUSED.**

BACKGROUND

On 13 September 2006, applicants filed international application PCT/US06/35743, which claimed priority to a U.S. application filed 13 September 2005.

On 01 November 2006, the United States Receiving Office (RO/US) mailed, inter alia, a "NOTIFICATION OF RECEIPT OF SEARCH COPY" (Form PCT/ISA/202) informing applicants that the search copy for the present international application was transmitted to the International Searching Authority (ISA).

On 13 June 2008, applicants filed the present communication requesting a refund of the search fees in the amount of $1,000.

DISCUSSION

37 CFR 1.446(d) states, in part:

"The search fee will be refunded if the application is withdrawn before transmittal of the search copy to the International Searching Authority."

***

A review of the application file reveals that the present international application has not

been withdrawn and that the search copy was sent to the United States International Searching Authority (ISA/US) on 01 November 2006. Therefore, applicants have not satisfied the conditions set forth in 37 CFR 1.446(d) or PCT Rule 16.2(ii) for a reduced search fee. Accordingly, applicants' request for a refund in the amount of $1,000 cannot be granted.

CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.446 to refund the search fee in the amount of $1,000 is **REFUSED.**

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1451, Alexandria, VA 22313-1450.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BM:jf

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18 JUL 2007

B. TODD PATTERSON
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD., SUITE 1500
HOUSTON TX TEXAS 77056-6582

In re Application of
APPLIED MATERIALS INC.
PCT No.: PCT/US06/35753
Int. Filing Date: 13 September 2006
Priority Date: 15 September 2005
Atty. Docket No.: 9914PC2DSMLO
For: VACUUM REACTION CHAMBER WITH X-LAMP HEATER

: DECISION ON PETITION
: UNDER 37 CFR 1.10(c)

This is a decision on applicant's "Request for Correction of International Filing Date", treated as a request to correct filing date under 37 CFR 1.10, filed in the United States Patent and Trademark Office (USPTO) on 20 December 2006. Applicant, in effect, requests that the USPTO accord a filing date of 13 September 2006 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/35753, which claimed a priority date of 15 September 2005.

On 31 October 2006, a Notification of the International Application Number and of the International Filing Date was mailed to applicant indicating that the International filing date of the application is 12 September 2006.

On 20 December 2006, applicant filed the present request, which included a copy of the Customer Receipt of the "Express Mail" mailing label Express Mail # EV763975317US. The mailing label was addressed to the "Mail Stop PCT, Commissioner for Patents, PO BOX 1450, Alexandria, VA 22313-1450". The "Date In" is "9/13/06" and the Customer Receipt bears a USPS barrel-stamp "SEP 13 2006".

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express

Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition contains a copy of the "Express Mail" Mailing Label # EV763975317US, which bears a USPS barrel stamp date of "SEP 13 2006". The transmittal letter having "Express Mail" mailing label Express Mail # EV763975317US thereon is contained in the application file. The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 13 September 2006. Specifically, the "Express Mail" label number ("EV763975317US") appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application papers were deposited on 13 September 2006.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of **13 September 2006** is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 31 October 2006 is hereby **VACATED**. A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 13 September 2006.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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07 FEB 2007

Deborah A. Somerville
Kenyon & Kenyon LLP
One Broadway
New York, NY 10004-1050

In re Application of :
THE TRUSTEES OF COLUMBIA UNIVERSITY IN :
THE CITY OF NEW YORK :
PCT Application No.: PCT/US06/35858 :
Int. Filing Date: 14 September 2006 : DECISION
Priority Date Claimed: 13 September 2005 :
Attorney Docket No.: 13533/464762 :
For: INSERTABLE DEVICE AND SYSTEM FOR :
MINIMAL ACCESS PROCEDURE :

This is in response to applicant's "Petition to Change the Filing Date and Response to Invitation to Correct Priority Claim" filed 04 January 2007, which is being treated under 37 CFR 1.10(d).

BACKGROUND

On 14 September 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 14 September 2006.

On 31 October 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 04 January 2007, applicant filed the present petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter and the Customer Copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3), the petition contains a showing (e.g. an affidavit signed by Che James, the person who actually mailed the correspondence in question) that the correspondence was deposited in Express Mail on 13 September 2006. However, the petition does not include sufficient corroborating evidence from the USPS or in the form of a mail log entry which came into being after deposit and within one business day of the purported deposit of the application in Express Mail.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
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PCT Legal Office

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New York, NY 10004-1050

In re Application of	:	
THE TRUSTEES OF COLUMBIA UNIVERSITY IN	:	
THE CITY OF NEW YORK	:	
PCT Application No.: PCT/US06/35858	:	
Int. Filing Date: 14 September 2006	:	DECISION
Priority Date Claimed: 13 September 2005	:	
Attorney Docket No.: 13533/464762	:	
For: INSERTABLE DEVICE AND SYSTEM FOR MINIMAL ACCESS PROCEDURE	:	

This is in response to applicant's "Request for Reconsideration and Renewed Petition Under 37 C.F.R. § 1.10(d) to Correct International Filing Date" filed 02 April 2007.

BACKGROUND

On 14 September 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 14 September 2006.

On 31 October 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 04 January 2007, applicant filed a petition under 37 CFR 1.10(d).

On 07 February 2007, this Office mailed a decision dismissing the 04 January 2007 petition.

On 02 April 2007, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3), applicant has previously made a showing (e.g. an affidavit signed by Che James, the person who actually mailed the correspondence in question) that the correspondence was deposited in Express Mail on 13 September 2006. Although the renewed petition includes evidence from the USPS in the form of a letter signed by Raschelle Parker, such evidence does not sufficiently corroborate applicant's showing without an explanation concerning the position of authority Raschelle Parker holds which authorizes him/her to make the statements contained in the letter and the basis upon which he/she is able to make such statements.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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13 FEB 2008

Deborah A. Somerville
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One Broadway
New York, NY 10004-1050

In re Application of	:	
THE TRUSTEES OF COLUMBIA UNIVERSITY IN	:	
THE CITY OF NEW YORK	:	
PCT Application No.: PCT/US06/35858	:	
Int. Filing Date: 14 September 2006	:	DECISION
Priority Date Claimed: 13 September 2005	:	
Attorney Docket No.: 13533/464762	:	
For: INSERTABLE DEVICE AND SYSTEM FOR MINIMAL ACCESS PROCEDURE	:	

This is in response to applicant's "Request for Reconsideration and Renewed Petition Under 37 C.F.R. § 1.10(d) to Correct International Filing Date" filed 03 January 2008.

BACKGROUND

On 14 September 2006, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 14 September 2006.

On 31 October 2006, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 04 January 2007, applicant filed a petition under 37 CFR 1.10(d).

On 07 February 2007, this Office mailed a decision dismissing the 04 January 2007 petition.

On 02 April 2007, applicant filed a renewed petition under 37 CFR 1.10(d).

On 02 November 2007, this Office mailed a decision dismissing the 02 April 2007 petition.

On 03 January 2008, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3), applicant has previously made a showing (e.g. an affidavit signed by Che James, the person who actually mailed the correspondence in question) that the correspondence was deposited in Express Mail on 13 September 2006. The present renewed petition includes sufficient corroborating evidence from the USPS in the form of a letter signed by Raschelle Parker. Such letter dated 20 November 2007 establishes Raschelle Parker's position of authority within the USPS and adequately explains the internal USPS procedures by which the deposit date of the correspondence in question was confirmed.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 31 October 2006 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
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ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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In re Application of	:	DECISION ON
M's SCIENCE CORPORATION	:	
PCT No.: PCT/US06/36339	:	PETITION
Int. Filing Date: 10 October 2006	:	
Priority Date: None	:	
Attorney's Docket No.: MHK-087-007-PCT	:	
For: PIPERIDINE AND PIPERAZINE DERIVATIVES	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.53 TO RESTORE THE FILING DATE OF 18 SEPTEMBER 2006 FOR . . . " filed 01 March 2007, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

The application will be transmitted to the International Bureau as Receiving Office under PCT Rule 19.4 for the reasons set forth below.

BACKGROUND

On 18 September 2006, the United States Receiving Office (RO/US) received a description, claims, abstract, drawings, two pages of a Request, and a Fee Calculation Sheet. (The first page of the Request was missing. The postcard receipt was annotated to reflect the missing page) These application papers were accorded the above-identified international application number.

On 10 October 2006, applicants filed a submission stating "[m]issing page 1 of Request is provided herein", which was accompanied by pages 1-3 of the PCT Request.

On 29 January 2007, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 10 October 2006.

On 29 January 2007, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) indicating that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 01 March 2007, applicant submitted the instant "PETITION UNDER 37 CFR 1.53 TO RESTORE THE FILING DATE OF 18 SEPTEMBER 2006 FOR . . . ", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

Transmittal to the International Bureau

Upon further review of the application file and the application papers received on 18 September 2006, it is noted that while an applicant was listed on the PCT Fee Calculation Sheet, the residence or nationality of that applicant does not appear anywhere in the original application papers. Accordingly, the RO/US is not a competent Receiving Office and the application will be transmitted to the International Bureau as Receiving Office (RO/IB). The application papers so transmitted shall be considered to have been received by the RO/IB on the date of receipt of the papers by the RO/US. See PCT Rule 19.4.

The NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102), the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE, the INVITATION TO CORRECT PRIORITY CLAIM, and the NOTIFICATION OF RECEIPT OF SEARCH COPY (Form PCT/ISA/202) all mailed 29 January 2007 are hereby VACATED.

Petition Under 37 CFR 1.181

The postcard receipt date-stamped by the USPTO has been annotated to indicate that "The 1st page of Request form missing." Section 513 of the MPEP states in part:

> [W]here 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.

The certification of Paul N. King and the declaration of Paul N. King have been considered along with the copy of the initialed postcard receipt. The declaration and certification state that Mr. King prepared the items listed including three pages of the Request and placed all items into an Express Mail envelope and hand delivered the envelope to the U.S. Post Office. However, these statements were made almost five months after the event in question. Moreover, these statements are contradicted by the annotated postcard receipt from the USPTO. The postcard receipt from the USPTO is a contemporaneous account of the contents of the Express Mail package when opened by a disinterested third party (a Federal contract employee). The annotated postcard receipt and the contents of the file are not outweighed by the evidence submitted by applicant.

Applicant urges that the postcard receipt stamped with a date and a PCT international application number is evidence that application was complete as of 18 September 2006. As noted in MPEP § 503, "the identification of an application by application number does not necessarily signify that the USPTO has accepted the application papers as complete."

Applicant also urges that "[a]ccording to an Authorized Officer who handled the International Application at the USPTO, the initials 'CT' indicating a missing page of the Request and handwritten remarks appearing on the return postcard were those of 'the contractor' (no a USPTO employee) who was responsible for scanning the application." (It is noted that the initials are "TC" rather than "CT".) However, the initials would be those of the contractor responsible for opening the mail rather than the contractor responsible for scanning.

Applicant also requests refund of the petition fee. Since there is no fee for a petition under 37 CFR 1.181, the petition fee of $400 will be refunded.

CONCLUSION

For the reasons set forth above, the NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE, the INVITATION TO CORRECT PRIORITY CLAIM, and the NOTIFICATION OF RECEIPT OF SEARCH COPY all mailed 29 January 2007 are VACATED.

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to the RO/US for processing of the application in accordance with this decision, that is, transmitting the application to the International Bureau as Receiving Office under PCT Rule 19.4.

Daniel Stemmer
Legal Examiner
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Office of Patent Cooperation Treaty
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10 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WASHINGTON DC 20003

In re Application of	:	DECISION ON
M's SCIENCE CORPORATION	:	
PCT No.: PCT/US06/36339	:	PETITION
Int. Filing Date: 10 October 2006	:	
Priority Date: None	:	
Attorney's Docket No.: MHK-087-007-PCT	:	
For: PIPERIDINE AND PIPERAZINE DERIVATIVES	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.53 TO RESTORE THE FILING DATE OF 18 SEPTEMBER 2006 FOR . . . " filed 01 March 2007, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

The application will be transmitted to the International Bureau as Receiving Office under PCT Rule 19.4 for the reasons set forth below.

BACKGROUND

On 18 September 2006, the United States Receiving Office (RO/US) received a description, claims, abstract, drawings, two pages of a Request, and a Fee Calculation Sheet. (The first page of the Request was missing. The postcard receipt was annotated to reflect the missing page) These application papers were accorded the above-identified international application number.

On 10 October 2006, applicants filed a submission stating "[m]issing page 1 of Request is provided herein", which was accompanied by pages 1-3 of the PCT Request.

On 29 January 2007, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 10 October 2006.

On 29 January 2007, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) indicating that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 01 March 2007, applicant submitted the instant "PETITION UNDER 37 CFR 1.53 TO RESTORE THE FILING DATE OF 18 SEPTEMBER 2006 FOR . . . ", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

Transmittal to the International Bureau

Upon further review of the application file and the application papers received on 18 September 2006, it is noted that while an applicant was listed on the PCT Fee Calculation Sheet, the residence or nationality of that applicant does not appear anywhere in the original application papers. Accordingly, the RO/US is not a competent Receiving Office and the application will be transmitted to the International Bureau as Receiving Office (RO/IB). The application papers so transmitted shall be considered to have been received by the RO/IB on the date of receipt of the papers by the RO/US. See PCT Rule 19.4.

The NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102), the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE, the INVITATION TO CORRECT PRIORITY CLAIM, and the NOTIFICATION OF RECEIPT OF SEARCH COPY (Form PCT/ISA/202) all mailed 29 January 2007 are hereby VACATED.

Petition Under 37 CFR 1.181

The postcard receipt date-stamped by the USPTO has been annotated to indicate that "The 1st page of Request form missing." Section 513 of the MPEP states in part:

> [W]here 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.

The certification of Paul N. King and the declaration of Paul N. King have been considered along with the copy of the initialed postcard receipt. The declaration and certification state that Mr. King prepared the items listed including three pages of the Request and placed all items into an Express Mail envelope and hand delivered the envelope to the U.S. Post Office. However, these statements were made almost five months after the event in question. Moreover, these statements are contradicted by the annotated postcard receipt from the USPTO. The postcard receipt from the USPTO is a contemporaneous account of the contents of the Express Mail package when opened by a disinterested third party (a Federal contract employee). The annotated postcard receipt and the contents of the file are not outweighed by the evidence submitted by applicant.

Applicant urges that the postcard receipt stamped with a date and a PCT international application number is evidence that application was complete as of 18 September 2006. As noted in MPEP § 503, "the identification of an application by application number does not necessarily signify that the USPTO has accepted the application papers as complete."

Applicant also urges that "[a]ccording to an Authorized Officer who handled the International Application at the USPTO, the initials 'CT' indicating a missing page of the Request and handwritten remarks appearing on the return postcard were those of 'the contractor' (no a USPTO employee) who was responsible for scanning the application." (It is noted that the initials are "TC" rather than "CT".) However, the initials would be those of the contractor responsible for opening the mail rather than the contractor responsible for scanning.

Applicant also requests refund of the petition fee. Since there is no fee for a petition under 37 CFR 1.181, the petition fee of $400 will be refunded.

CONCLUSION

For the reasons set forth above, the NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE, the INVITATION TO CORRECT PRIORITY CLAIM, and the NOTIFICATION OF RECEIPT OF SEARCH COPY all mailed 29 January 2007 are VACATED.

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to the RO/US for processing of the application in accordance with this decision, that is, transmitting the application to the International Bureau as Receiving Office under PCT Rule 19.4.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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17 JAN 2007

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ALAN E. DOW
BIOTECHNOLOGY LAW GROUP
658 MARSOLAN AVENUE
SOLANA BEACH CA CALIFORNIA 92075-1931

In re Application of
THE BURNHAM INSTITUTE FOR MEDICAL RESEARCH
PCT No.: PCT/US06/37103
Int. Filing Date: 21 September 2006
Priority Date: 21 September 2005
Atty. Docket No.: BRN-2070-PC
For: COMPOSITIONS AND METHODS FOR DETECTION OF COLORECTAL CANCER

: DECISION ON PETITION
: UNDER 37 CFR 1.10(c)

This is a decision on applicant's "Request for Correction of the International Filing Date under 37 CFR 1.10(c)", filed in the United States Patent and Trademark Office (USPTO) on 4 December 2006. Applicant, in effect, requests that the USPTO accord a filing date of 21 September 2006 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/37103, which claimed a priority date of 21 September 2005.

On 07 November 2006, a Notification of the International Application Number and of the International Filing Date was mailed to applicant indicating that the International filing date of the application is 22 September 2006.

On 04 December 2006, applicant filed the present request, which included a copy of the Customer Receipt of the "Express Mail" mailing label Express Mail # ED744613085US. The mailing label was addressed to the "Mail Stop PCT, Commissioner for Patents, PO BOX 1450, Alexandria, VA 22313-1450". The "Date In" is "9/21/06". The Customer Receipt does not bear a USPTO barrel-stamp.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than

the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition contains a copy of the "Express Mail" Mailing Label # ED744613085US. A review of the USPS Track and Confirm statement for "Express Mail" Mailing Label # ED744613085US indicates that the package was accepted on 21 September 2006.

The transmittal letter having "Express Mail" mailing label bearing #ED744613085US thereon is contained in the application file. The original Express Mail envelope is contained in the file. The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 21 September 2006. Specifically, the "Express Mail" label number ("ED744613085US") appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application papers were deposited on 21 September 2006.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of **21 September 2006** is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 07 November 2006 is hereby **VACATED**. A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 21 September 2006.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

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P.O. Box 1450
Alexandria, VA 22313-1450
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09 JUL 2007

Margaret B. Kelley
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, New Jersey 07102-9506

In re Application of :
MARS INCORPORATED :
PCT No.: PCT/US06/38342 :
Int. Filing Date: 02 October 2006 : DECISION ON PETITION
Priority Date: 03 October 2005 :
Attorney Docket No.: 105942-58163 :
For: IMPROVED PROCESS FOR :
ANALYZING, FOR SEPARATING, AND
FOR ISOLATING INDIVIDUAL . . .

This decision is issued in response to applicant's "Notice Of Withdrawal" filed 08 November 2006 and applicant's "Request For Refund" filed 05 June 2007. No petition fee is required.

BACKGROUND

On 02 October 2006, applicant filed materials to initiate the present international application including, among other materials, a Request (Form PCT/RO/101) and a $1,862 fee payment.

On 08 November 2006, applicant filed the "Notice Of Withdrawal."

On 05 June 2007, applicant filed a "Request For Refund."

DISCUSSION

The "Notice of Withdrawal" (Form PCT/IB/372) filed 08 November 2006 and requesting withdrawal of the application was executed by Margaret B. Kelly. As stated on the form, "in order for the withdrawal to be effective, the notice of withdrawal must be signed by (all) the applicant(s), their appointed agent or appointed common representative."

Here, applicant has not submitted acceptable Power of Attorney forms from the corporate applicant and three applicant/inventors, appointing Margaret B. Kelly as their agent herein.

An acceptable Power of Attorney appointing Margaret B. Kelly must be submitted on behalf of MARS INCORPORATED, Mark A. KELM, Christopher J. JOHNSON, and Rebecca J. ROBBINS before the request for withdrawal can be effective. Until such a Power of Attorney is provided, the request to withdraw the international application is not appropriately granted.

As for the refund request, applicants have paid the following fees: $300 transmittal fee, $1,086 international filing fee, $156 additional pages over 30 sheets, $20 priority document fee, and $300 as the search fee. The PCT includes no provision for obtaining a refund of the transmittal fee or the priority document fee. Accordingly, these fees are non-refundable.

PCT Rule 15.6 and 16.2 set forth the conditions under which a refund of the international filing fee and/or the search fee is permitted. As discussed in such rules, if the application is effectively withdrawn prior to the transmittal of the record copy to the International Bureau (IB) (for the international filing fee) and the search copy to the International Searching Authority (ISA) (for the search fee), a refund of these fees is appropriate. It is noted that the transmittal of the record copy and/or the search copy has occurred. At the present time, however, where the application has not been effectively withdrawn, a refund of such fees is not appropriate.

CONCLUSION

For the reasons discussed above, the request for withdrawal of the present international application is **DISMISSED** without prejudice.

The request for refund request is **DISMISSED** without prejudice.

Please direct further correspondence with respect to the request for withdrawal or the refund request to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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Office of PCT Legal Administration
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Fax: (571) 273-0459

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08 JAN 2008

Margaret B. Kelley
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, New Jersey 07102-9506

In re Application of :
MARS INCORPORATED :
PCT No.: PCT/US06/38342 :
Int. Filing Date: 02 October 2006 : DECISION ON PETITION
Priority Date: 03 October 2005 :
Attorney Docket No.: 105942-58163 :
For: IMPROVED PROCESS FOR :
ANALYZING, FOR SEPARATING, AND
FOR ISOLATING INDIVIDUAL . . .

This decision is issued in response to applicant's "Notice Of Withdrawal" filed 30 November 2007. No petition fee is required.

BACKGROUND

On 02 October 2006, applicant filed materials to initiate the present international application including, among other materials, a Request (Form PCT/RO/101) and a $1,862 fee payment.

On 08 November 2006, applicant filed the "Notice Of Withdrawal."

On 05 June 2007, applicant filed a "Request For Refund."

In a decision dated 09 July 2007, applicant's Notice Of Withdrawal and Request for Refund were dismissed without prejudice.

On 30 November 2007, applicant filed a second "Notice Of Withdrawal."

DISCUSSION

The "Notice of Withdrawal" (Form PCT/IB/372) filed 30 November 2007 and requesting withdrawal of the application was executed by Margaret B. Kelly. As stated on the form, "in order for the withdrawal to be effective, the notice of withdrawal must be

signed by (all) the applicant(s), their appointed agent or appointed common representative."

Here, applicant has submitted acceptable Power of Attorney forms from the three applicant/inventors, appointing Ms. Kelly as their agent herein. However, the Power of Attorney for the corporate applicant, MARS INCORPORATED, is not acceptable. The person who executed this Power of Attorney does not expressly state that he has authority to sign on behalf of MARS INCORPORATED, and his title as "General Counsel, Technology" does not provide him with apparent authority (see MPEP section 324(V): "A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee.").

An acceptable Power of Attorney appointing Ms. Kelly must be submitted on behalf of MARS INCORPORATED before the request for withdrawal can be effective. Until such a Power of Attorney is provided, the request to withdraw the international application is not appropriately granted.

As for the refund request, applicants have paid the following fees: $300 transmittal fee, $1,086 international filing fee, $156 additional pages over 30 sheets, $20 priority document fee, and $300 as the search fee. The PCT includes no provision for obtaining a refund of the transmittal fee or the priority document fee. Accordingly, these fees are non-refundable.

PCT Rule 15.6 and 16.2 set forth the conditions under which a refund of the international filing fee and/or the search fee is permitted. As discussed in such rules, if the application is effectively withdrawn prior to the transmittal of the record copy to the International Bureau (IB) (for the international filing fee) and the search copy to the International Searching Authority (ISA) (for the search fee), a refund of these fees is appropriate. Thus, if the Power of Attorney required for an effective withdrawal of the international application is filed prior to the transmittal of the record copy and/or the search copy, then a refund of these fees will be appropriate. At the present time, however, where the application has not been effectively withdrawn, a refund of such fees is not appropriate.

CONCLUSION

For the reasons discussed above, the request for withdrawal of the present international application is **DISMISSED** without prejudice.

The request for refund request is **DISMISSED** without prejudice.

Please direct further correspondence with respect to the request for withdrawal or the refund request to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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0 6 FEB 2008

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Margaret B. Kelley
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, New Jersey 07102-9506

In re Application of :
MARS INCORPORATED :
PCT No.: PCT/US06/38342 :
Int. Filing Date: 02 October 2006 : DECISION ON PETITION
Priority Date: 03 October 2005 :
Attorney Docket No.: 105942-58163 :
For: IMPROVED PROCESS FOR :
ANALYZING, FOR SEPARATING, AND
FOR ISOLATING INDIVIDUAL . . .

This decision is issued in response to applicant's "Notice Of Withdrawal" filed 25 January 2008. No petition fee is required.

BACKGROUND

On 02 October 2006, applicant filed materials to initiate the present international application including, among other materials, a Request (Form PCT/RO/101) and a $1,862 fee payment.

On 08 November 2006, applicant filed the "Notice Of Withdrawal."

On 05 June 2007, applicant filed a "Request For Refund."

In a decision dated 09 July 2007, applicant's Notice Of Withdrawal and Request for Refund were dismissed without prejudice.

On 30 November 2007, applicant filed a second "Notice Of Withdrawal." In a decision dated 08 January 2008, applicant's Notice Of Withdrawal and Request for Refund were dismissed without prejudice.

On 25 January 2008, applicant filed a third Notice Of Withdrawal and Request for Refund.

DISCUSSION

Under 90bis.1 the withdrawal is effective upon receipt of the notice addressed by the applicant to the receiving Office. In this case, the notice of withdrawal did not become effective until the filing of the Power of Attorney on 25 January 2008. Accordingly, international application no. PCT/US06/38342 is considered withdrawn on 25 January 2008.

Additionally, petitioner has filed a request for refund of international fees. Since the record copy of the international application has been transmitted to the International Bureau, applicant is not entitled a refund of the international fee. The search copy of the international application has been forwarded to the International Searching Auhority, therefore, applicant is not entitled a refund of the search fee. The $300.00 transmittal fee is not refundable (see 37 CFR 1.446) and the PCT includes no provision for obtaining a refund of the priority document fee. Accordingly, applicant's request for refund is dismissed without prejudice.

CONCLUSION

For the reasons discussed above, the request for withdrawal of the present international application is **ACCEPTED**.

The request for refund is **DISMISSED** without prejudice.

The international application is being returned to the United States Receiving Office (RO/US) for processing in accordance with this decision and preparing a Notification of Withdrawal (Form PCT/RO/136) indicating a 25 January 2008 receipt date of the notice effecting withdrawal for forwarding to the International Bureau (IB) and the U.S. International Searching Authority (ISA).

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Robert N. Blackmon
Merek Blackmon & Voorhees, LLC
673 S. Washington St.
Alexandria, Virginia 22314

In re Application of	:	
EUBANK, et al.	:	DECISION ON PETITION
PCT No.: PCT/US06/38477	:	
Int. Filing Date: 03 October 2006	:	UNDER 37 CFR 1.181 AND
Priority Date: 03 October 2005 (per decision)	:	
Attorney's Docket No.: E2EUB001.C14	:	PRIORITY CLAIM REQUEST
For: FIRST AID INFORMATION FOR CELLULAR TELEPHONES AND ELECTRONIC DEVICES	:	

This decision is in response to applicant's "Request To Correct Priority Claim" and "Request to Correct Application Papers or in The Alternative Correct Declarations" filed 05 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 03 October 2006, applicant filed an international application with the United States Receiving Office (RO/US). The filed papers did not contain sheet 3 of 5 of the PCT Request Form (Form PCT/RO/101). The checklist of the Form PCT/RO/101 and fee calculation sheet were changed by the RO/US ex oficio to reflect the missing sheet. (See Form PCT/RO/146 mailed 21 December 2006.

On 05 February 2007, applicant filed the papers considered herein. Applicant's contention that sheet 3 was provided at the time of filing is being considered pursuant to 37 CFR 1.181. No petition fee is required.

DISCUSSION

I. Petition Under 37 CFR 1.181

Applicant contends in the present filing that the subject sheet was included at the time of filing on 03 October 2006 and that "Page 3 as filed by the Applicant (See Exhibit 1) was omitted by the PCT Office in the Request." However, applicant's exhibit does not provide any evidence to support the contention. Applicant has included a purported copy of the filed PCT Request with a USPTO date stamp indicating a receipt date of 03 October 2006 on the first page. However, applicant does not include an indication as to how this copy with date stamp was

obtained. In addition, the stamped sheet does not itemize the filed papers. As such, it is not possible to discern what was filed on 03 October 2006 by the filed exhibit. Applicant has not included a stamped return postcard. See Manual of Patent Examining Procedure section 503, "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." Therefore, it is not possible to grant applicant's petition under 37 CFR 1.181 to accept the papers filed on 05 February 2007 as having been filed on 03 October 2006.

Regarding applicant's request for refund of the $700.00 additional fees charged for the international search fee, a close reading of the relevant regulation finds that a refund is not appropriate. In order for the reduced search fee of $300.00 to apply, 37 C.F.R. 1.445(a)(2)(i) required that the priority item of a prior U.S. application filed under 35 U.S.C. 111(a) be provided at the time of filing. As applicant's priority application information was not provided until 05 February 2007, applicant's request for a refund is **DISMISSED**.

II. Request For Addition of Priority Claims Under PCT Rule 26bis.1

A review of the filed papers finds that the request for addition of priority was made prior to the expiration of sixteen months from the earliest claimed priority claim of 03 October 2005. Specifically, applicant made the claim on 05 February 2007. 03 February 2007 being a Saturday, the filing is timely pursuant to PCT Rule 80.5.

III. Request to Correct Declarations Pursuant to PCT Rule 26ter.

A review of this matter finds that the International Bureau has favorably ruled on this matter. (See Form PCT/IB/371) mailed 23 April 2007. As such, there is no need for the Office to consider this matter.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application is being forward to the RO/US for processing of applicant's addition of priority claim pursuant to PCT Rule 26bis.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
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www.uspto.gov

Merck & CO., Inc.
126 East Lincoln Avenue
Rahway, New Jersey 07065

In re Application of
MERCK & CO., INC. :
PCT No.: PCT/US06/38559 :
Int. Filing Date: 29 September 2006 : DECISION ON PETITION
Priority Date: 23 November 2003 :
Attorney Docket No.: PCT21646 :
For: ESTROGEN RECEPTOR MODULATORS :

This decision is issued in response to the "Response to Invitation to Correct the Purported International Application" filed 27 November 2006, which has been treated as a petition under 37 CFR 1.181 to confirm that the materials filed by applicant on 29 September 2006 included the sheet 1/5 of the Request (Form PCT/RO/101) attached to the present petition. No petition fee is required.

BACKGROUND

On 29 September 2006, applicant filed materials intended to initiate an international application. The international application consisted of four sheets of Request (Form PCT/RO/101), fifty-four sheets of description, six sheets of claims, one sheet of abstract, fee calculation sheet, and a transmittal letter. The materials were assigned application no. PCT/US06/38559.

On 07 November 2006, the United States Receiving Office (RO/US) mailed an "Invitation To Correct The Purported International Application" (Form PCT/RO/103) indicating that the 29 September 2006 submission could not be accorded an international filing date because it failed to include an indication that it is intended as an international application. The Invitation To Correct provided one month for applicant to file a proper response, stating that the international filing date for the application would be the date on which the required additions were received.

On 27 November 2006, applicant filed the petition considered herein.

DISCUSSION

Applicant states in the present response that the first page of the Request had been included in the enclosure mailed by Express Mail on 29 September 2006. A review of the

application file reveals that page 1 of the Request is not located therein. The best evidence of what was actually received by the Office on a particular date is a copy of returned date stamped postcard receipt that was filed with papers in question and contains a specific itemization of all items being submitted. (See Manual of Patent Examining Procedure § 503.) In the present instance, applicant has not provided any evidence, such as a date stamped return receipt post card, that evidences receipt by the Office of page 1 of the Request filed on 29 September 2006.

However, as stated above, the initial filing contained four sheets of the PCT Request, which included the required identification an applicant and designation of contracting states. Therefore, the "Invitation To Correct The Purported International Application" (Form PCT/RO/103) mailed 07 November 2006, based as it was on applicant's purported failed to include an indication that it is intended as an international application, is appropriately vacated.

Taking into account the presence of the four sheets of the Request initially filed, the 29 September 2006 submission satisfied the requirements for accordance of an international filing date. Accordingly, the present application will be accorded the requested 29 September 2006 international filing date.

Additionally, applicant's request has treated a request add Merck & CO., Inc. as an applicant and Mark L. Greenlee as an applicant/inventor under PCT Rule 92bis. Applicant's request under PCT Rule 92bis will be forwarded to the International Bureau.

CONCLUSION

For the reasons set forth above, applicant's petition is **GRANTED**.

The Request form attached to the petition will be treated as originally filed on 29 September 2006. The "Invitation To Correct The Purported International Application" (Form PCT/RO/103) mailed 07 November 2006 is hereby VACATED.

This application is being returned to the RO/US for further processing in accord with this decision, including according this application an international filing date of 29 September 2006, forwarding a copy of the Request and the present decision to the International Bureau, and continuing processing of the present application.

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

PCT 21646

PCT/US06/38559.27.12.2006

PCT REQUEST

Original (for **SUBMISSION**)

0	For receiving Office use only	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	
0-4	Form PCT/RO/101 PCT Request	
0-4-1	Prepared Using	PCT-SAFE [EASY mode] Version 3.51.009.184 MT/FOP 20060701/0.20.5
0-5	Petition The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	Receiving Office (specified by the applicant)	United States Patent and Trademark Office (USPTO) (RO/US)
0-7	Applicant's or agent's file reference.	PCT 21646
I	Title of Invention	ESTROGEN RECEPTOR MODULATORS
II	Applicant	
II-1	This person is	applicant only
II-2	Applicant for	all designated States except US
II-4	Name	MERCK & CO., INC.
II-5	Address	126 East Lincoln Avenue Rahway, New Jersey 07065-0907 United States of America
II-6	State of nationality	US
II-7	State of residence	US
II-8	Telephone No.	732-594-1249
II-9	Facsimile No.	732-594-4720
III-1	Applicant and/or Inventor	
III-1-1	This person is	applicant and inventor
III-1-2	Applicant for	US only
III-1-4	Name (LAST, First)	GREENLEE, Mark, L.
III-1-5	Address	126 East Lincoln Avenue Rahway, New Jersey 07065-0907 United States of America
III-1-6	State of nationality	US
III-1-7	State of residence	US

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAMES D. IVEY
LAW OFFICES OF JAMES D. IVEY
3025 TOTTERDELL STREET
OAKLAND CA 94611

In re Application of	:	
GOLDSTEIN	:	DECISION
PCT No.: PCT/US06/38689	:	
Int. Filing Date: 03 October 2006	:	
Priority Date: None	:	
Attorney's Docket No.: None	:	
For: AN ADAPTOR FOR VIDEO MONITORS	:	

This decision is in response to applicant's "PETITION FOR REFUND OF INTERNATIONAL SEARCH FEE IN ACCORDANCE WITH 37 CFR 1.446" filed by facsimile transmission on 18 January 2007.

BACKGROUND

On 03 October 2006, applicant filed international application papers including a Request, description, claims, abstract, and drawings.

On 06 November 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) indicating, *inter alia*, that a balance of $700 was due because the search fee was $1,000 rather than the $300 paid by applicants.

On 09 November 2006, applicant filed via facsimile transmission a "RESPONSE TO THE NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES"urging that the proper search fee should be $300 because applicant claimed priority to U.S. application number 11/538,422.

On 27 November 2006, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) indicating that the proper search fee is $1,000 because the corresponding U.S. application referred to by applicant does not have a prior filing date.

On 05 December 2006, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) indicating that the Form PCT/RO/102 mailed 06 November 2006 and the Form PCT/RO/132 mailed 27 November 2006 were sent out in error and that the fees were correct.

On 05 December 2006, the RO/US also mailed a second NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) indicating, *inter alia*, that the proper search fee was $300 and no balance was due.

On 18 December 2006, the RO/US mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) indicating that the previous balance of $700 was due together with a late payment fee of $350. The INVITATION set a one month time period from the date of mailing for response. The INVITATION also indicated that failure to pay the amount due within the time limit indicated may result in the international application being considered withdrawn by the RO/US.

On 18 January 2007, applicant filed a "Response to Invitation to Pay Prescribed Fees Together with Late Payment Fee" which included the balance of $700 and the late payment fee of $350.

On 18 January 2007, applicant also filed the instant "PETITION FOR REFUND OF INTERNATIONAL SEARCH FEE IN ACCORDANCE WITH 37 CFR 1.446" requesting that both the balance of $700 and the late payment fee of $350 be refunded.

DISCUSSION

Search Fee

37 CFR 1.445(a)(2)(i) states,

> If a corresponding prior United States national application under 35 U.S.C. 111(a) has been filed on or after December 8, 2004, the basic filing fee under § 1.16(a), search fee under § 1.16(k), and examination fee under § 1.16(o) have been paid therein, and the corresponding prior United States national application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application $300.00.

The present petition states that U.S. Application No. 11/538,422 was filed on 03 October 2006 and that the present international application was subsequently filed later that same day.

MPEP 1819 states in relevant part, "A corresponding U.S. national application having the same filing date as the international application is not a 'prior' application for purposes of 37 CFR 1.445(a)(2)."

Applicant urges that "the MPEP is not authoritative and is therefore not 'enforceable' as are the law (e.g. volume 35 of the United States Code) and the rules in Tile 37 of the Code of Federal Regulations." However, the MPEP "is entitled to notice so far as it is an official interpretation of statutes or regulations with which it is not in conflict." *Litton Systems Inc. v. Whirlpool Corp.*, 728 F.2d 1423, 1439 (Fed. Cir. 1984). MPEP 1819 is not in conflict with the

regulation. Correspondence filed with the USPTO is accorded a receipt date, not a receipt date and time. Thus, applications filed on the same day are accorded the same receipt date. For example, if one application were filed six hours earlier than a second application both filed on the same date, both are accorded the same receipt date. The first application is not prior to the second application because they both have the same receipt date.

Because U.S. Application No. 11/538,422 has the same filing date as the present international application, U.S. Application No. 11/538,422 is not a prior application for the purposes of 37 CFR 1.445(a)(2). Therefore, applicant is not entitled to the reduced search fee under 37 CFR 1.445(a)(2)(i).

Late Payment Fee

Both the PCT/RO/132 and the PCT/RO/102 mailed 05 December 2006 were in error. Accordingly, a third PCT/RO/102 indicating that a balance of $700 was due should have been issued before the PCT/RO/133 was mailed. Because the PCT/RO/133 was mailed prematurely, applicant is entitled to a refund of the late payment fee ($350).

CONCLUSION

For the reasons set forth above, the request for refund of $700 of the search fee is **DENIED**.

For the reasons set forth above, the request for refund of the late payment fee is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the RO/US for continued processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

United States Patent and Trademark Office

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

17 JAN 2007

Josefino P. de Leon
SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 King Street, Suite 600
Alexandria, VA 22313

In re Application of
IMAGING DIAGNOSTIC SYSTEMS, INC.
Int. Appl. No.: PCT/US06/38753
Int. Filing Date: 04 October 2006
Priority Date: 04 October 2005
Agent's File Reference: 7471-WO
For: LASER IMAGING APPARATUS WITH VARIABLE POWER, ORBIT TIME AND BEAM DIAMETER

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's 25 October 2006 communication requesting correction of the international filing date from 05 October 2006 to 04 October 2006, which is being treated as a petition under 37 CFR 1.181. The petition is **GRANTED** as follows:

BACKGROUND

On 04 October 2006, applicant filed international application PCT/US06/38753 with the United States Receiving Office (RO/US). Applicant claimed priority to a U.S. application filed 04 October 2005. The RO/US indicated 05 October 2006 as the international filing date on the PCT Request.

On 25 October 2006, applicant filed the present petition, forwarding, inter alia, a copy of the return receipt postcard indicating an 04 October 2006 receipt date for international application PCT/US06/38753 and that the present international application be accorded an international filing date of 04 October 2006.

Notwithstanding the above, on 09 November 2006, the RO/US mailed a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating that the international filing date for international application PCT/US06/38753 is 05 October 2006.

DISCUSSION

A review of the papers filed with the present petition reveals that applicant has provided sufficient evidence that the application papers for the present international application were filed in the Office on 04 October 2006. The "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 09 November 2006) improperly indicated 05 October 2006 as the international filing date. Therefore, correction of the Form PCT/RO/105 to indicate an international filing date of 04 October 2006 is appropriate.

CONCLUSION

Accordingly, applicant's petition for correction of the international filing date is hereby **GRANTED**. The Form PCT/RO/105 mailed 09 November 2006 is hereby **VACATED.**

A corrected Form PCT/RO/105 indicating 04 October 2006 as the international filing date accompanies this decision. A copy of this decision will be sent to the International Bureau.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

(571) 272-3284

JSF/RC:jf

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

Enclosures: corrected Form PCT/RO/105 and
corrected first page of PCT Request.

HOME COPY

PCT/US06/38753

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 06/38753

International Filing Date 04 OCT 2006

PCT INTERNATIONAL APPLICATION

Name of receiving Office and "PCT International Application" RO/US

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 7471-WO

Box No. I TITLE OF INVENTION

Laser Imaging Apparatus with Variable Power, Orbit Time and Beam Diameter

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name, for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

IMAGING DIAGNOSTIC SYSTEMS, INC.
6531 NW 18TH COURT
PLANTATION, FLORIDA 33313
UNITED STATES OF AMERICA

Telephone No. (954) 581-9800

Facsimile No. (954) 581-0555

Teleprinter No.

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name, for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

WAKE, ROBERT H.
13335 LAKESIDE TERRACE
COOPER CITY, FLORIDA 33330
UNITED STATES OF AMERICA

This person is:
☐ applicant only
☐ applicant and inventor
☒ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality:

State *(that is, country)* of residence:

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address. *(Family name followed by given name, for a legal entity, full official designation. The address must include postal code and name of country.)*

DE LEON, JOSEFINO P.
SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET, SUITE 600
ALEXANDRIA, VIRGINIA 22314
UNITED STATES OF AMERICA

Telephone No. (703) 684-5600

Facsimile No. (703) 684-5288

Teleprinter No.

Agent's registration No. with the Office 33,166

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
JOSEFINO P. DE LEON
SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET, SUITE 600
ALEXANDRIA, VIRGINIA 22314

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.5(c))

Date of mailing *(day/month/year)*	17 JAN 2007
Applicant's or agent's file reference: 7471-WO	**IMPORTANT NOTIFICATION**

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2006/038753	04 Oct 2006	04 Oct 2005

Applicant: IMAGING DIAGNOSTIC SYSTEMS, INC.

Title of the invention: LASER IMAGING APPARATUS WITH VARIABLE POWER, ORBIT TIME AND BEAM DIAMETER

1. The applicant is hereby notified that the international application has been accorded the international application number and the international filing date indicated above.

2. The applicant is further notified that the record copy of the international application:

☒ was transmitted to the International Bureau on 09 Nov 2006

☐ has not yet been transmitted to the International Bureau for the reason indicated below and a copy of this notification has been sent to the International Bureau*:

☐ because the necessary national security clearance has not yet been obtained.

☐ because *(reason to be specified)*:

* The International Bureau monitors the transmittal of the record copy by the receiving Office and will notify the applicant (with Form PCT/IB/301) of its receipt. Should the record copy not have been received by the expiration of 14 months from the priority date, the International Bureau will notify the applicant (Rule 22.1(c)).

3. FOREIGN TRANSMITTAL LICENSE INFORMATION Completed by: JF

☐ Additional license for foreign transmittal not required. This subject matter is covered by a license already granted or the equivalent U.S. national application. Refer to that license for information concerning its scope.

☐ License for foreign transmittal not required. 37 CFR. 5.11(e)(1) or 37 CFR 5.11(e)(2). However, a license may be required for additional subject matter. See 37 CFR 5.15(b).

☒ Foreign transmittal license granted. 35 U.S.C. 184; 37 CFR 5.11 on 03 Nov 2006 (date):

☐ 37 CFR 5.15(a) ☒ 37 CFR 5.15(b)

Name and mailing address of the receiving Office	Authorized officer
Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	Jeremy Fleming
Facsimile No. 571-273-3201	Telephone No. 571-272-3284

Form PCT/RO/105 (July 1992)

27 FEB 2007

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

Surinder Sachar
OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
AGC CHEMICALS AMERICAS, INC.	:	
PCT No.: PCT/US06/38781	:	DECISION UNDER
Int. Filing Date: 04 October 2006	:	37 CFR 1.181
Priority Date: 27 October 2005	:	
Agent's File Reference: 268580WO	:	
For: POLYTETRAFLUOROETHYLENE MICROPOWDER COMPOSITIONS	:	

Applicants' 22 January 2007 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 05 October 2006 to 04 October 2006. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 04 October 2006, applicants filed international application PCT/US06/38781, which claimed priority to a U.S. application filed 27 October 2005.

On 06 December 2006, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating an 05 October 2006 international filing date.

On 22 January 2007, applicants filed the present petition informing the RO/US that the 05 October 2006 international filing date is incorrect and should be changed to 04 October 2006.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO" (emphasis added).

A review of the 22 January 2007 communication reveals that international application PCT/US06/38781 was received in the USPTO on 04 October 2006. The proof is in the form of a copy of the return receipt postcard which includes a USPTO date stamp indicating that all the items listed thereon were received in the Office on 04 October 2006. Therefore, the 05 October 2006 international filing date as indicated on the Form PCT/RO/105 mailed 06 December 2006 is incorrect. The correct international filing date for the present international application is 04 October 2006.

CONCLUSION

Applicants' 22 January 2007 petition to correct the international filing date from 05 October 2006 to 04 October 2006 is hereby **GRANTED.** The Form PCT/RO/105 mailed 06 December 2006 is **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating an 04 October 2006 international filing date are being sent to the International Bureau.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

Telephone (571) 272-3284
Facsimile (571) 273-0459

JSF/LS:jf

Enclosures: copy of corrected Form PCT /RO/105
and copy of corrected first page of PCT Request.

24 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOSEPH G. SWAN
1334 PARKVIEW AVENUE, SUITE 100
MANHATTAN BEACH CA CALIFORNIA 90266

In re Application of VERGENCE ENTERTAINMENT LLC PCT No.: PCT/US06/39123 In. Filing Date: 06 October 2006 Priority Date: 06 October 2005 Atty. Docket No.: 21695-103 For: SUBSTANTIALLY SIMULTANEOUS ALERTS AND USE THEREOF IN INTERMITTENT CONTESTS	DECISION on REFUND

This is in response to applicant's "REQUEST FOR REFUND" filed 20 November 2006 in the United States Patent and Trademark Office (USPTO).

On 06 October 2006, applicants filed international application No. PCT/US06/39123 which claimed priority of earlier U.S. provisional application filed 06 October 2005 along with a fee calculation sheet.

Applicant paid $300 as the search fee for the present application. The RO/US charged Deposit account 50-2490 an additional $700 for such search fee. The present submission seeks a refund of the extra $700 charged by the RO/US, asserting that the $300 fee (set forth in 37 CFR 1.445(a)(2)(i) applies to the present application. By the terms of this regulation, an applicant is entitled to the reduced fee if, at the time of filing the international application, applicant identifies a previously filed U.S. nonprovisional application either by application number or, if the application number is not known, by title, filing date, and applicant's name.

Here, the original application materials filed by applicant referenced a prior U.S. provisional application and such application was identified in "Box VI" of the Request (Sheet No. 3). Applicant also identified two U.S. utility applications (11/539,179 & 11/539180) on the fee calculation sheet which were filed on the same day as the international application, 6 October 2006. These applications were not prior-filed applications as required by 37 CFR 1.445(a)(2)(i) and thus applicant is not entitled to the reduced fee under 37 CFR 1.445(a)(2)(i).

Based on the above, the appropriate search fee for the present application is $1000. The request for refund is **DISMISSED**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Fax: 571-272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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0 8 FEB 2008

JOSEPH G. SWAN
1334 PARKVIEW AVENUE, SUITE 100
MANHATTAN BEACH CA CALIFORNIA 90266

In re Application of	
VERGENCE ENTERTAINMENT LLC	DECISION on
PCT No.: PCT/US06/39123	
In. Filing Date: 06 October 2006	REFUND
Priority Date: 06 October 2005	
Atty. Docket No.: 21695-103	
For: SUBSTANTIALLY SIMULTANEOUS ALERTS AND USE THEREOF IN INTERMITTENT CONTESTS	

This is in response to applicant's "Petition for Deposit Account Refund" filed 16 November 2007 in the United States Patent and Trademark Office (USPTO).

On 06 October 2006, applicants filed international application No. PCT/US06/39123 which claimed priority of earlier U.S. provisional application filed 06 October 2005 along with a fee calculation sheet.

Applicant paid $300 as the search fee for the present application. The RO/US charged Deposit account 50-2490 an additional $700 for such search fee.

On 20 November 2006, Applicant requested a refund of an alleged $700 overcharge for the search fee in the above referenced application. A decision mailed on 24 January 2007 dismissed the refund request under 37 CFR 1.445(a)(2)(i).

The present submission again seeks a refund of the extra $700 charged by the RO/US, asserting that the $300 fee (set forth in 37 CFR 1.445(a)(2)(i) applies to the present application. As previously stated, by the terms of this regulation, an applicant is entitled to the reduced fee if, at the time of filing the international application, applicant identifies a previously filed U.S. nonprovisional application either by application number or, if the application number is not known, by title, filing date, and applicant's name. Here applicant identified two U.S. applications on the fee calculation sheet which were filed on the same day as the international application.

In the present request, Applicant argues that "37 CFR 1.445(a)(2)(i) only required a prior United States national application under 35 U.S.C. 111(a) to have been filed. It did not require the application to have been filed on a different day." Applicant's argument attempts to circumvent the rule. Here, the original application materials filed by applicant referenced a prior U..S. provisional application and such application was identified in "Box VI" of the Request (Sheet No. 3). Applicant also identified two U.S. utility applications (11/539,179 & 11/539,180) on the fee calculation sheet **which were filed on the same day as the international application**, 6 October 2006. **These applications are not considered prior-filed applications as required by 37 CFR 1.445(a)(2)(i)** and thus applicant is not entitled to the reduced fee under 37 CFR 1.445(a)(2)(i).

Applicant also requests the refund of the $25 charge incurred as a result of deposit account balance falling below the minimum required.

> 37 CFR 1.25. Deposit accounts (a) states in pertinent part:
> A minimum deposit of $1,000 is required for paying any fee due or in ordering any services offered by the Office..... At the end of each month, a deposit account statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. A service charge (§ 1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below $1,000.

As stated in 37 CFR 1.25(a), an amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. A service charge (§1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below $1,000. 37 CFR 1.121(b)(2) regarding Deposit accounts indicates that a Service charge for each month when the balance at the end of the month is below $1,000 is $25.00. Applicant's request for a refund of the $25 charge incurred as a result of the deposit account balance falling below the minimum required is dismissed.

Based on the above, the appropriate search fee for the present application is $1000. The request for refund of $725 is **DISMISSED**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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22 APR 2008

JOSEPH G. SWAN
1334 PARKVIEW AVENUE, SUITE 100
MANHATTAN BEACH CA CALIFORNIA 90266

In re Application of	
VERGENCE ENTERTAINMENT LLC	DECISION on
PCT No.: PCT/US06/39123	
In. Filing Date: 06 October 2006	REFUND
Priority Date: 06 October 2005	
Atty. Docket No.: 21695-103	
For: SUBSTANTIALLY SIMULTANEOUS ALERTS AND USE THEREOF IN INTERMITTENT CONTESTS	

This is in response to applicant's "Petition for Deposit Account Refund" filed 22 February 2008 in the United States Patent and Trademark Office (USPTO). The petition is identical to applicant's petition filed on 20 November 2006 in all aspects, in effect requesting reconsideration of the request for refund. Applicant requests a further explanation of "prior filed" applications.

Applicant filed international application No. PCT/US06/39123 on 06 October 2006 which claimed priority of earlier U.S. provisional application filed 06 October 2005 along with a fee calculation sheet. Applicant paid $300 as the search fee for the present application. The RO/US properly charged his deposit account an additional $700 for such search fee.

On 20 November 2006, Applicant requested a refund of an alleged $700 overcharge for the search fee in the above referenced application. A decision dismissing the request was mailed on 24 January 2007. On 30 April 2007, applicant filed a request for status and a supplemental request for deposit account refund, which was dismissed by a decision mailed on 08 February 2008.

On 22 February 2008, Petitioner again filed a request for refund and consideration of the supplemental Request and Request for Status of Deposit Account filed on 25 April 2007. Applicant argues that "37 CFR 1.445(a)(2)(i) only requires a prior United States national application under 35 U.S.C. 111(a) to have been filed. It does not require the application to have been filed on a different day." These submissions, while not directly addressed in the decision mailed on 08 February 2008, do not change the outcome.

37 CFR 1.445(a)(2)(i) applies to the present application. An applicant is entitled to the reduced fee if, at the time of filing the international application (06 October 2006), applicant identifies a **previously filed** U.S. **nonprovisional** application either by application number or, if the application number is not known, by title, filing date, and applicant's name.

Again, in reviewing the Request form, a claim to priority in Box VI is to a provisional application (60/724,473 filed on 06 October 2005). Thus, the reduced fee does not apply as 37 CFR 1.445(a)(2)(i) indicates that the priority must be to a "U.S. nonprovisional application."

Applicant directs attention to the fee calculation sheet, wherein applicant identified two U.S. applications (11/539,179 and 11/539,180). These applications were filed on the same day as the international application- 06 October 2006. MPEP §1819 states: "A **corresponding U.S. national application having the same filing date as the international application is not a "prior" application** for purposes of 37 CFR1.445(a)(2)." (Emphasis added.). Therefore, the filing of an application on the same day as the filing of the international application does not constitute a prior filed application and does not entitle applicant to the reduced search fee.

These priority applications are not considered prior-filed U.S. applications as required by 37 CFR 1.445(a)(2)(i) and thus applicant is not entitled to the reduced fee under 37 CFR 1.445(a)(2)(i).

Based on the above, the appropriate search fee for the present application is $1000. The request for refund of $700 is **DISMISSED**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Fax: 571-272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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15 FEB 2007

Harvey L. Cohen
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of :
CHRISTOPHER P. WILLIAMS :
PCT No.: PCT/US06/39844 : DECISION UNDER
Int. Filing Date: 12 October 2006 : 37 CFR 1.10(c)
Priority Date: 04 November 2005 :
Agent's File Reference: CPWILL 01CIP :
For: LOW RADIOCARBON NUCLEOTIDE AND :
AMINO ACID DIETARY SUPPLEMENTS

This is in response to applicant's 04 January 2007 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US06/39844 be corrected from 16 October 2006 to 12 October 2006. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 18 December 2006), International Application No. PCT/US06/39844 was accorded a filing date of 16 October 2006 by the United States Receiving Office (RO/US).

On 04 January 2007, the present petition was filed requesting that International Application No. PCT/US06/39844 be accorded a filing date of 12 October 2006 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10(c)(1). "Express Mail" Label No. EV668788640US was indicated on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(c)(2). The "Express Mail" mailing label of record in the application file indicates that the date of deposit for the present international application is 12 October 2006. Additionally, the "Track & Confirm" database of the USPS indicates that the date of deposit is 12 October 2006. Accordingly, correction of the international filing date to 12 October 2006 is appropriate.

CONCLUSION

For the above reasons, the request to correct the filing date is **GRANTED**. The Form PCT/RO/105 mailed 18 December 2006 is hereby **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating a 12 October 2006 international filing date are being sent to the International Bureau.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

JSF/LS:jf

Enclosures: a copy of corrected Form PCT/RO/105 and a copy of the corrected copy of first page of the PCT Request.

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

(571)272-3284

30 JAN 2007

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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Basil S. Krikelis
McCarter & English, LLP
Suite 1800
919 North Market Street
Wilmington, DE 19899

In re Application of UNIVERSITY OF DELAWARE :
PCT Application No.: PCT/US2006/039921 :
Int. Filing Date: 06 October 2006 :
Priority Date Claimed: 06 October 2005 : DECISION
Attorney Docket No.: 99689.00043 PCT :
For: G-RICH POLYNUCLEOTIDES FOR THE :
TREATMENT OF HUNTINGTON'S :
DISEASE :

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 23 January 2007.

BACKGROUND

On 06 October 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 23 January 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that applicant mistakenly submitted the international application papers for acceptance under Section 801 of the PCT Administrative Instructions (AI).

Although the RO/US has not notified that International Bureau (IB) that it is prepared to accept applications filed under Administrative Instructions (AI) § 801(a), the RO/US will accept applications in a particular case pursuant to AI § 801(c) provided that the guidelines set forth in MPEP 1823.02 are followed. A review of the 06 October 2006 submission reveals that one or more of said guidelines were not met. Therefore, the RO/US would have had discretion to

accept the application under conventional filing procedures rather than under AI §801(a). Applicant's explanation for the errors contained in the Request is accepted.

A review of RO/US fee records indicates that a fee of $36.00 is due for sheets in excess of thirty. Therefore, $4,764 (i.e. $4,800.00 sequence listing page fee - $36.00 excess sheets fee) will be refunded to Deposit Account No. 50-3569.

CONCLUSION

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

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

20 JUN 2007

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Commissioner for Patents
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www.uspto.gov

Francis E. Morris
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004

In re Application of	:	
Vanderbilt University, et al.	:	DECISION ON
PCT No.: PCT/US06/40040	:	
Int. Filing Date: 11 October 2006	:	PETITION UNDER
Priority Date: 12 October 2005	:	
Attorney's Docket No.: 61398-5003WO	:	37 CFR 1.10(d)
For: SYSTEM AND METHOD FRO IMAGE MAPPING AND VISUAL ATTENTION CROSS REFERENCE TO RELATED APPLICATIONS	:	

This decision is in response to the petition requesting the Office to correct the international filing date, filed 13 November 2006. This has been treated as a petition under 37 CFR 1.10(d) requesting that the above-identified application be accorded an international filing date of 11 October 2006.

BACKGROUND

Shortly after filing this international application, applicant received a return receipt postcard indicating that the international filing date was 12 October 2006.

On 13 November 2006, the RO/US received the present petition, accompanied by a copy of the United State Post Office (USPS) Express Mail Receipt with a post office stamp indicating that the application was filed with the USPS on 11 October 2006.

On 27 November 2006, the United States Receiving Office (RO/US) sent applicant a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (form PCT/RO/105) indicating that the international filing date for the above identified application was 12 October 2006.

On 02 April 2007, the United States Receiving Office (RO/US) sent applicant a second "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (form PCT/RO/105) indicating that the international filing date for the above identified application was 11 October 2006

DISCUSSION

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the 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.

Applicant filed the petition promptly after realizing that the Office accorded a filing date other than the USPS round stamp date. Further, the Express Mail mailing label number was placed on the transmittal letter included with the filing of the international application. Regarding element (3), while petitioner has provided an Express Mail mailing label bearing a USPS round stamp date of 11 October 2006, the original Express Mail mailing envelope retained in the application file shows a "Date-In" date of 12 October 2006 which is consistent with the tracking information on the USPS website. Applicant has not presented sufficient evidence from which the Office can conclude that the 11 October 2006 date is the date that the correspondence was deposited with the USPS.

CONCLUSION

Applicant's petition to correct the international filing date to 11 October 2006 is hereby **DISMISSED without prejudice**.

The "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) mailed 02 April 2007 is hereby **VACATED**.

The "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (form PCT/RO/105) mailed 27 November 2006 indicating that the international filing date is 12 October 2006 is hereby **REINSTATED**.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Telephone: (571) 272-3280
Facsimile: (571) 273-0459

Richard Cole
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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22 FEB 2008

Daniel J. Noblitt
Noblitt & Gilmore, LLC
4800 North Scottsdale Road
Suite 6000
Scottsdale, Arizona 85251

In re Application of
RAYTHEON COMPANY
PCT No.: PCT/US06/40482
Int. Filing Date: 13 October 2006
Priority Date: 13 October 2005
Attorney Docket No.: RAYTH.3316
For: EXHAUST ASSEMBLY FOR MASS EJECTION DRIVE SYSTEM

DECISION ON PETITION
UNDER 37 CFR 1.10

This decision is issued in response to applicant's "Request to Correct International Filing Date under 37 CFR 1.10"filed 26 March 2007 to accord an international filing date of 13 October 2006 to the above-identified international application.

BACKGROUND

The United States Receiving Office accorded an international filing date of 14 October 2006 to the above-identified international application.

On 26 March 2007, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EO925802033US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" and shows no information in the "Date In" box, however, the label has a USPS postal stamp date of October 13, 2006.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 13 October 2006. Specifically, the "Express Mail" label number ("#EO925802033US") appears on "Express Mail" certificate on the Transmittal Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 13 October 2006.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 13 October 2006. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 13 October 2006 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 13 October 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 13 October 2006; and (3) forwarding a copy of this decision to the International Bureau.

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

PCT/US06/40482

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

PCT/US 06/40482
International Application No.

13 OCT 2006
International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* RAYTH.3316

Box No. I TITLE OF INVENTION

EXHAUST ASSEMBLY FOR MASS EJECTION DRIVE SYSTEM

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

RAYTHEON COMPANY
BUILDING 807/MS F8
P.O. Box 11337
TUCSON, ARIZONA 85734-1337
USA

Telephone No. 520 794 8611
Facsimile No. 520 794 8171
Teleprinter No.
Applicant's registration No. with the Office

State *(that is, country)* of nationality: USA

State *(that is, country)* of residence USA

This person is applicant for the purpose of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

MELKERS, Edgar R
7941 N. Portofino Circle
Tucson, ARIZONA 85742
US

This person is:
☐ applicant only
☒ applicant and inventor
☐ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence. US

This person is applicant for the purpose of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as. ☒ Agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

GILMORE, Douglas W.
NOBLITT & GILMORE, LLC
4800 North Scottsdale Road
SUITE 6000
SCOTTSDALE, ARIZONA 85251
USA

Telephone No. 480.994.9869
Facsimile No. 480.994.9025
Teleprinter No.
Agent's registration No with the Office 48690

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

11 JUN 2007

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

Benjamin C. Stasa
BROOKS KUSHMAN
1000 Town Center
Twenty-Second Floor
Southfield, MI 48105

In re Application of :
THE REGENTS OF THE UNIVERSITY OF MICHIGAN :
PCT No.: PCT/US2006/040738 :
Int. Filing Date: 18 October 2006 :
Priority Date: 18 October 2005 : **DECISION**
Attorney's Docket No.: UOM0355PCT :
For: MICROFLUIDIC CELL CULTURE DEVICE :

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

BACKGROUND

On 18 October 2006, applicant filed PCT/US2006/040738 claiming a priority date of 18 October 2005. Another US utility application filed on 17 October 2006 was also listed as a priority claim in the Supplemental Box of the PCT Request.

On 12 December 2006, applicant submitted a request for refund for the reduced search fee of $300.00 in the above application.

DISCUSSION

A review of the subject indicates that an incorrect search fee was charged. Applicant identified the earlier filed US utility application by filing date, title, docket and name of applicants on Sheet No. 7 of the PCT Request. See 37 CFR 1.445.

Accordingly, a search fee of $300.00 is warranted.

CONCLUSION

Applicant's request for refund is **GRANTED**.

A review of USPTO financial records for the subject application show that the $700 difference between the full search fee and the reduced search fee has already been refunded.

This application is being forwarded to the international division at the USPTO for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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11 JUN 2007

Benjamin C. Stasa
BROOKS KUSHMAN
1000 Town Center
Twenty-Second Floor
Southfield, MI 48105

In re Application of
THE REGENTS OF THE UNIVERSITY OF MICHIGAN
PCT No.: PCT/US2006/040738
Int. Filing Date: 18 October 2006
Priority Date: 18 October 2005
Attorney's Docket No.: UOM0355PCT
For: MICROFLUIDIC CELL CULTURE DEVICE

DECISION

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

BACKGROUND

On 18 October 2006, applicant filed PCT/US2006/040738 claiming a priority date of 18 October 2005. Another US utility application filed on 17 October 2006 was also listed as a priority claim in the Supplemental Box of the PCT Request.

On 12 December 2006, applicant submitted a request for refund for the reduced search fee of $300.00 in the above application.

DISCUSSION

A review of the subject indicates that an incorrect search fee was charged. Applicant identified the earlier filed US utility application by filing date, title, docket and name of applicants on Sheet No. 6 of the PCT Request. See 37 CFR 1.445.

Accordingly, a search fee of $300.00 is warranted.

CONCLUSION

Applicant's request for refund is **GRANTED**.

The $700 difference between the full search fee and the reduced search fee will be refunded to deposit account no. 02-3978.

This application is being forwarded to the international division at the USPTO for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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13 MAR 2007

CARL J. SCHWEDLER
MCDONOUGH HOLLAND & ALLEN PC
555 CAPITOL MALL, 9TH FLOOR
SACRAMENTO CA CALIFORNIA 95814

In re Application of: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
PCT No: PCT/US06/40854
International Filing Date: 17 October 2006
Priority Date: 17 October 2005
Atty Docket No.: 32568/0007
For: COMPOSITIONS AND METHODS RELATED TO ANTI-FGF AGENTS

DECISION ON PETITION UNDER 37 CFR 1.10(c)

This decision is issued in response to the "Petition Under 37 CFR Section 1.10(c)" filed 20 February 2007 requesting correction of the international filing date herein. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EV439494824US. The submission included a transmittal letter that specifically identified the "Express Mail" label number and identified 17 October 2006 as the date of deposit.

On 20 December 2006, the United States Receiving Office (RO/US) mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 18 October 2006 as the international filing date and an "Invitation To Correct Priority Claim" (Form PCT/RO/110) indicating that the 17 October 2005 priority claim was defective for failure to fall within twelve months of the international filing date.

On 20 February 2007, applicant filed the petition considered herein. The petition asserts that the materials initiating this international application were deposited with the USPS as "Express Mail" on 17 October 2006 and that the proper international filing date is therefore 17 October 2006, a date that falls within twelve months of the priority claim. The submission includes, among other materials, a copy of the customer receipt for "Express Mail" label number EV439494824US; the "date in" on this label is 17 October 2006.

DISCUSSION

The present international application was accorded an international filing date of 18 October 2006. Applicant asserts that the proper international filing date is 17 October 2006, the

date on which the "Express Mail" envelope containing the application materials was deposited with the USPS. As noted above, a transmittal letter identifying the "Express Mail" label number accompanied the application papers. Applicant has now supplied a copy of the customer receipt for this "Express Mail" label; the receipt bears a "date in" of 17 October 2006. In addition, the USPS tracking database confirms that the USPS accepted this "Express Mail" envelope on 17 October 2006.

Based on applicant's statements, the "Express Mail" label number listed on the transmittal letter filed with the international application, and the 17 October 2006 "date in" entered by the USPS on the "Express Mail" customer receipt, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 October 2006. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 October 2006.

It is noted that the 17 October 2005 priority claim falls within twelve months of the corrected international filing date.

CONCLUSION

Applicant's petition is **GRANTED**. The international filing date is corrected to **17 October 2006**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 20 December 2006, which identified 18 October 2006 as the international filing date, is hereby **VACATED**.

The "Invitation To Correct Priority Claim" (Form PCT/RO/110) mailed 20 December 2006, based as it was on the purported failure of applicant's 17 October 2005 priority claim to fall within twelve months of the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" which correctly identifies the international filing date as **17 October 2006** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accord with this decision.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau of the WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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NICHOLAS A. ZACHARIADES, PH.D.
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

In re Application of	:	
THE PENN STATE RESEARCH FOUNDATION	:	DECISION
PCT No.: PCT/US2006/41209	:	
Date of Receipt: 20 October 2006	:	
Priority Date Claimed: 20 October 2005	:	
Attorney's Docket No.: 6460-58WO	:	
For: DELIVERY SYSTEM FOR THERAPEUTIC AND DIAGNOSTIC AGENTS	:	

This is in response to applicant's "CORRECTED RESPONSE TO NOTICE TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION" filed 07 February 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 01 December 2006, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE indicating that the international application has a filing date of 20 October 2006.

On 01 December 2006, the RO/US also mailed an INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION indicating, *inter alia*, that the drawings contained unnecessary text matter.

On 22 December 2006, applicant filed a "RESPONSE TO NOTICE TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION" which was accompanied by four sheets of drawings.

On 07 February 2007, applicants submitted the instant "CORRECTED RESPONSE TO NOTICE TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION" which was accompanied by 15 sheets of drawings. The request to replace the 4 sheets of drawings filed 22 December 2006 with the 15 sheets of drawings filed 07 February 2007 has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition filed 07 February 2007 states that drawings submitted 22 December 2006 did not pertain to the instant application and were inadvertently sent. The petition requests that the

drawings submitted with the submission filed 07 February 2007 be accepted as the response to the INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION.

The first fourteen of the drawing sheets submitted 07 February 2007 will be accepted as a response to the INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION. The fifteenth sheet of drawings containing Fig. 14 is not accepted. The originally filed drawings contained 14 sheets of drawings and Figs. 1-13. Thus, Fig. 14 is a new drawing. During Chapter 1 proceedings, changes to the drawings may only be entered upon approval by the International Searching Authority if the changes comply with PCT Rule 91.1(b). An additional drawing does not comply with PCT Rule 91.1(b). However, applicant may submit the additional drawing for consideration as an amendment under PCT Article 34 along with the Demand under the provisions of the Treaty or by resubmitting the changes upon entry into the national stage. The amendments may only be entered if they do not go beyond the disclosure of the international application as filed. Additionally, Article 34 amendments submitted during Chapter II must also be in compliance with PCT Rules 11.14 and 66.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED-IN-PART**; the first fourteen of the fifteen sheets of drawings submitted 07 February 2007 will be accepted as a replacement for the four sheets of drawings submitted 22 December 2006. The fifteenth sheet submitted 07 February 2007 is not accepted.

This application is being returned to the RO/US for continued processing in accordance with this application.

Daniel Stemmer
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PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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CC: International Bureau of WIPO
United States International Searching Authority

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MELISSA PYTEL
HUMAN GENOME SCIENCES, INC.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

In re Application of	:	DECISION ON
HUMAN GENOME SCIENCE, INC.	:	
PCT No.: PCT/US06/41601	:	
Int. Filing Date: 23 October 2006	:	PETITION UNDER
Priority Date: 23 October 2005	:	
Attorney Docket No.: MD113PCT	:	
For: EXPRESSION CONSTRUCT MAINTENANCE	:	37 CFR 1.182

This is in response to applicant's submission "PETITION UNDER 37 C.F.R. 1.182 TO MAKE COMPLETE A WHOLLY-FILED APPLICATION" filed 12 December 2006. The petition fee of $400.00 and fee for the sequence listing have not be charged to Deposit Account No.: 08-3425 because Melissa J. Pytel is not authorized to do this charge.

BACKGROUND

On 23 October 2006, applicant filed international application papers with the United States Receiving Office (RO/US).

On 12 December 2006, applicant filed the current petition indicating the sequence listing was not properly indicated as part of the application on the form. Instead applicant provided a paper coy of the sequence listing and clearly indicated that a paper copy of the sequence listing was associated with the application in the PCT Request Form under Section IX-18 other.

DISCUSSION

However, at this time no action can be taken on the petition filed on 12 December 2006 since the petition fee and the sequence listing fee can not be charged to the Deposit Account.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

HUMAN GENOME SCIENCES, INC.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

In re Application of	:	DECISION ON
HUMAN GENOME SCIENCE, INC.	:	
PCT No.: PCT/US06/41601	:	
Int. Filing Date: 23 October 2006	:	PETITION UNDER
Priority Date: 23 October 2005	:	
Attorney Docket No.: MD113PCT	:	
For: EXPRESSION CONSTRUCT MAINTENANCE	:	37 CFR 1.182

This is in response to applicant's submission ""RENEWED PETITION UNDER 37 C.F.R. 1.182"" filed 23 August 2007. The petition fee of $400.00 and $72.00 for the sequence listing have been charged to Deposit Account No.: 08-3425.

BACKGROUND

In a decision from this Office on 28 June 2007, the petition filed was dismissed because at the time of charging Melissa Pytel was no longer authorized to request the charge.

On 23 August 2007, applicant filed the current renewed petition authorizing the petition fee with an agent that is currently authorized to request the charge. The original petition stated that the sequence listing was not properly indicated as part of the application on the form. Instead applicant provided a paper copy of the sequence listing and clearly indicated that a paper copy of the sequence listing was associated with the application in the PCT Request Form under Section IX-18 other.

DISCUSSION

A review of the file reveals that applicant erroneously filed the PCT Request form because no itemized listing for the number of pages of the Sequence Listing was submitted. However, the Sequence Listing was with international application PCT/US06/41601upon filing and as such it is part of the application filed on October 23, 2006. Consequently, applicant will be charged to the Deposit Account accordingly for the Sequence Listing of 6 pages for a charge of $72.00. The $4,800.00 fee charged to the Deposit Account will be refunded to applicant.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED.** The Sequence Listing paper copy is considered to have been filed on **October 23, 2006** with the above aforementioned international application.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Rafael Bacares
Legal Examiner
PCT Legal Office
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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20 MAR 2007

Patrick M. Torre
KING & SCHICKLI, PLLC
247 North Broadway
Lexington, KY 40507

In re Application of :
UNIVERSITY OF TENNESSEE RESEARCH FOUNDATION :
PCT No.: PCT/US06/42425 :
Int. Filing Date: 31 October 2006 :
Priority Date: 31 October 2005 :
Agent's File Reference: METHODS FOR IDENTIFICATION OF SUSCEPTIBILITY TO INFLAMMATORY DISEASE :

DECISION ON REQUEST FOR REFUND UNDER 37 CFR 1.446

This decision is in response to applicants' communication filed 18 January 2007. Applicants' communication has been treated as a petition under 37 CFR 1.446 requesting a refund in the amount of $4,800. The petition is **DISMISSED.**

BACKGROUND

On 31 October 2006, applicants filed international application PCT/US06/42425. Applicants indicated in Box No. IX of the PCT Request that the Sequence Listing was being filed only in computer readable form as provided under 37 CFR 801(a)(i).

On 03 November 2006, the United States Receiving Office (RO/US) charged counsel's Deposit Account No. 11-0978, inter alia, in the amount of $4,800 for the filing of a Sequence Listing in computer readable form pursuant to 37 CFR 801(a)(i).

On 18 January 2007, applicants filed the present petition requesting a refund in the amount of $4,800.

DISCUSSION

PCT Administrative Instructions, section 803 provides that:

"Where sequence listings and/or tables are filed in electronic form under Section 801(a), the international filing fee payable in respect of that application include the following two components:

(i) a basic component calculated as provided in the Schedule of Fees in respect of all

- *pages filed on paper (that is, all pages of the request, description (excluding sequence listings and/or tables if also filed on paper) claims, abstract and drawings), and*

  (ii) an additional component in respect of sequence listings and/or tables equal to 400 times the fee per sheet as referred to in item 1 of the Schedule of Fees, regardless of the length of the sequence listings and/or tables filed in electronic form and regardless of the fact that sequence listings and/or tables may have been filed both on paper and in electronic form.

A review of the PCT Request reveals that applicants filed the computer readable form under Administrative Instructions Section 801(a). As such, the present international application is subject to the payment of $4,800 as required under PCT Administrative Instructions 803(ii). Accordingly, applicants' petition for a refund in the amount of $4,800 cannot be granted.

CONCLUSION

For the above reasons, the request for refund is **DISMISSED.**

Reconsideration of this decision may be considered pursuant to 37 CFR 1.182 subject to a petition fee in the amount of $400.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/RC:jf

(571) 272-3284

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GREGORY L. BRADLEY
MEDRAD, INC.
ONE MEDRAD DRIVE
INDIANOLA PA PENNSYLVANIA 15051

In re Application of:
MEDRAD, INC.
PCT No.: PCT/US2006/043133
International Filing Date: 06 November 2006
Priority Date: 04 November 2005
Atty Docket No.: IN/05-003.PCT
For: DELIVERY OF AGENTS SUCH AS CELLS TO TISSUE

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Petition Under 37 CFR 1.181 And Rule 4.10" filed 01 February 2007. No petition fee is required.

BACKGROUND

On 06 November 2006, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. The Request listed four different priority claims, including one directed to U.S. application number 11/460,365, purportedly filed on 28 July 2006.

On 28 December 2006, the United States Receiving Office (RO/US) mailed an "Invitation To Correct Priority Claim" (Form PCT/RO/110) indicating that the fourth priority claim (i.e., the claim to U.S. application number 11/460,365) was defective. Specifically, the Form PCT/RO/110 indicated that the filing date for this priority application listed in the Request (28 July 2006) did not match the filing date on the priority document itself (27 July 2006).

On 08 January 2007, applicant filed a "Response to Invitation to Correct Priority Claim in the International Application" asserting that the proper filing date for the priority application was 28 July 2006, as listed on the Request.

On 01 February 2007, applicant filed the petition considered herein. The petition asserts that the proper filing date for the fourth priority claim is 28 July 2006 and that the Form PCT/RO/110 mailed 28 December 2006 is therefore incorrect and should be vacated.

DISCUSSION

As noted above, the fourth priority claim listed by applicant on the Request filed herein is directed to U.S. application number 11/460,365, and it asserts that this priority application was filed on 28 July 2006.

The Form PCT/RO/110 mailed on 28 December 2006 informed applicant that this priority claim was defective because the filing date for U.S. application number 11/460,365 is 27 July 2006, not 28 July 2006.

In the present petition, applicant argues that the proper filing date for the priority application is 28 July 2006, as set forth in the Request; however, the evidence submitted in support of this assertion is a filing receipt and bibliographic data sheet for a different U.S. application, 11/460,635. It appears that this is the application to which applicant intended to claim priority, and it is true that the filing date for such application is 28 July 2006. However, based on an apparent typographical error in the Request filed by applicant, this is not the priority claim of record in this international application.

Should applicant wish to correct the fourth priority claim to reference U.S. application number 11/460,635, filed 28 July 2006, a proper and timely request for such a correction must be submitted pursuant to PCT Rule 26bis.

Based on the above, the Form PCT/RO/110 mailed herein on 28 December 2006 was properly issued. Applicant's petition to vacate the Form PCT/RO/110 is therefore appropriately dismissed.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The Form PCT/RO/110 mailed herein on 28 December 2006 remains in effect.

The fourth priority claim herein remains directed to U.S. application number 11/460,365, purportedly filed 28 July 2006. This priority claim remains defective based on the disparity in filing dates referred to in the Form PCT/RO/110 mailed herein on 28 December 2006.

Should applicant desire to correct the apparent typographical error in the fourth priority claim, a request to correct the priority claim must be properly and timely submitted pursuant to PCT Rule 26bis.

Richard M. Ross
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UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL R. GIBSON
CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of	:	
SYLVAN R. SHEMITZ DESIGNS, INC.	:	DECISION
PCT No.: PCT/US06/43379	:	
Int. Filing Date: 06 November 2006	:	
Priority Date: 04 November 2005	:	
Attorney's Docket No.: ELP-0123-PCT	:	
For: APPARATUS FOR REDUCING SOCKET SHADOW	:	

This decision is in response to applicants' submission filed 13 December 2006, which has properly been treated as a petition under 37 CFR 1.10(c).

BACKGROUND

The application papers filed by applicants for the above-identified application were accorded a receipt date of 07 November 2006 by the USPTO.

On 13 December 2006, applicant submitted the instant submission, which has properly been treated as a petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label #EV916621320US. The mailing label shows a date of "11606" in the "Date In" box.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail Post Office to Addressee" mailing on 06 November 2006. Specifically, the "Express Mail" label number ("EV916621320US") appears on the transmittal letter, which also refers to, *inter alia*, a new international application and lists the above-identified attorney docket number and title. As discussed above, the copy of the Customer Copy of this "Express Mail" label shows a "Date In" of 06 November 2006.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(c) requesting that the application papers be accorded an international filing date of 06 November 2006 is **GRANTED**.

The application is being returned to the RO/US for processing in accordance with this decision, including according the application papers an international filing date of **06 November 2006**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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13 MAR 2007

Charles E. Steffey
SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH
P.O. Box 2938
Minneapolis, MN 55402

In re Application of	:	
JAMES PAULSON, ET AL	:	
PCT No.: PCT/US06/43661	:	DECISION UNDER
Int. Filing Date: 10 November 2006	:	37 CFR 1.10(c)
Priority Date: 10 November 2005	:	
Agent's File Reference: 2500.001WO1	:	
For: HIGH AFFINITY SIGLEC LIGANDS	:	

This is in response to applicants' 07 December 2006 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US06/43661 be corrected from 09 November 2006 to 10 November 2006. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 25 January 2007), International Application No. PCT/US06/43661 was accorded a filing date of 09 November 2006 by the United States Receiving Office (RO/US).

On 07 December 2006, the present petition was filed requesting that International Application No. PCT/US06/43661 be accorded a filing date of 10 November 2006 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10(c)(1). "Express Mail" Label No. EV973150734US was indicated on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(c)(2). The "Express Mail" mailing label of record in the application file indicates that the date of deposit for the present international application is 10 November 2006. Additionally, the "Track & Confirm" database of the USPS indicates that the date of deposit is 10 November 2006. Accordingly, correction of the international filing date to 10 November 2006 is appropriate.

CONCLUSION

For the above reasons, the request to correct the filing date is **GRANTED**. The Form PCT/RO/105 mailed 25 January 2007 is hereby **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating a 10 November 2007 international filing date are being sent to the International Bureau.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

JSF/LS:jf

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

(571)272-3284

Enclosures: a copy of corrected Form PCT/RO/105 and a copy of the corrected copy of first page of the PCT Request.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NOVUSONIC CORPORATION
P.O. BOX 183
ASHTON, MD 20861

In re Application of NOVUSONIC CORPORATION :
PCT Application No.: PCT/US06/44098 :
Int. Filing Date: 13 November 2006 :
Priority Date Claimed: 16 December 2005 : DECISION
Attorney Docket No.: (none) :
For: ELECTROSTATIC ACOUSTIC :
TRANSDUCER BASED ON ROLLING :
CONTACT MICRO ACTUATOR :

This is in response to applicant's letter filed 25 January 2007, which is being treated as a request for refund.

BACKGROUND

On 13 November 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 16 January 2007, the RO/US mailed, *inter alia*, a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102), which indicated that a fee balance of $700.00 was due.

On 25 January 2007, applicant filed the present request for refund.

DISCUSSION

37 CFR 1.446(a) states in relevant part,

> Money paid for international application fees, where paid by actual mistake or in excess, such as a payment not required by law or treaty and its regulations, may be refunded. A mere change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested and will not notify the payor of such amounts.

The present request for refund states that corresponding U.S. application number 11/595,750 was filed on the same date as the present international application, and therefore applicant should be entitled to an international search fee of $300.00.

37 CFR 1.445(a)(2)(i) states that applicant is entitled to a reduced international search fee provided that a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under § 1.16(a) has been filed and the corresponding prior United States National application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application.

MPEP 1819 states in relevant part, "A corresponding U.S. national application having the same filing date as the international application is not a "prior" application for purposes of 37 CFR 1.445(a)(2)."

A review of the international application file reveals that the corresponding U.S. application was not properly identified at the time the international application was filed. Furthermore, because U.S. Application No. 11/595,750 has the same filing date as the present international application, U.S. Application No. 11/595,750 is not a prior application for the purposes of 37 CFR 1.445(a)(2). Therefore, applicant is not entitled to the reduced search fee under 37 CFR 1.445(a)(2)(i).

CONCLUSION

For the reasons above, the request for refund is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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24 AUG 2007

Larry Millstein
Holland & Knight LLP
Suite 700
1600 Tysons Boulevard
McLean, Virginia 22102-4867

In re Application of
BALYASNIKOVA, IRINA V.
PCT No.: PCT/US06/44382
Int. Filing Date: 15 November 2006
Priority Date: 15 November 2005
Attorney Docket No.: 109943.00005
For: SINGLE CHAIN FRAGMENT OF MONOCLONAL ANTIBODY 9B9 AND USES THEREOF

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition under 37 CFR 1.181 for Withdrawal of Ex Officio Corrections and Inclusion of Drawings Acknowledged as Originally Filed" filed 17 August 2007. No petition fee is required.

BACKGROUND

On 15 November 2006, applicant filed materials to initiate the present international application, including a Request (Form PCT/RO/101) and accompanying materials. The Request indicated that it was accompanied by seventeen sheets of drawings. However, when the United States Receiving Office (RO/US) subsequently processed the application materials, it appears that only sixteen sheets of drawings were present.

On 31 January 2007, the US/RO mailed "Notification Regarding Certain Corrections Made Ex Officio" (Form PCT/RO/146) indicated that (only) 16 drawing sheets were received by the United States Receiving Office.

On 17 August 2007, applicant filed the "Petition under 37 CFR 1.181 for Withdrawal of Ex Officio Corrections and Inclusion of Drawings Acknowledged as Originally Filed" considered herein. The petition asserts that the original application filed 15 November 2006 included seventeen sheets of drawings, and requests that the RO/US acknowledge this filing. The petition includes a copy of the missing drawing sheet (Figure 14) filed by applicant on 15 November 2006, as well as a copy of a return postcard that itemizes the application materials (including seventeen sheets of drawings) and bears a USPTO receipt stamp dated 15 November 2006.

DISCUSSION

Based on applicant's statements in the present petition and the itemized return postcard bearing the 15 November 2006 USPTO receipt stamp, it is concluded that the original application materials filed by applicant on 15 November 2006 included all seventeen sheets of drawings, including Figure 14 (drawing sheet 16/17). Accordingly, Figure 14 (drawing sheet 16/17), which was not included in the published international application, is properly included in the present application and accorded a filing date of 15 November 2006.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

Figure 14 (drawing sheet 16/17) attached to the present petition is treated as having been filed on 15 November 2006.

The Notification Regarding Certain Corrections Made Ex Officio (Form PCT/RO/146) mailed 31 January 2007 is **VACATED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision, including forwarding to the International Bureau copy of the missing drawing sheet for inclusion in the present application.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
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cc: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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0 8 AUG 2007

JOHN COSTELLO
331 J STREET, SUITE 200
SACRAMENTO, CA 95814

In re Application of OASES UK, LTD. :
PCT Application No.: PCT/US2006/044398 :
Int. Filing Date: 14 November 2006 : DECISION
Priority Date Claimed: 15 November 2005 :
Attorney Docket No.: 2005-115E :
For: SYNTHETIC INFILTRATION :
COLLECTION SYSTEM :

This is in response to applicant's correspondence filed 21 February 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 14 November 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 26 January 2007, the RO/US mailed, *inter alia*, a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which stated that page 4 of the description is not present in the application file.

On 21 February 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the 17 description pages (including page 4) were originally filed on 14 November 2006. Specifically, the copy of the return postcard, which includes the 17 description pages in its itemized contents and which bears a USPTO date stamp of 14 November 2006, serves as *prima facie* evidence that the 17 description pages were received by the USPTO on 14 November 2006.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132) mailed 26 January 2007 is hereby VACATED.

This application is being forwarded to the RO/US for further processing in accordance with this decision. A copy of this decision is being forwarded to the International Bureau (IB) along with page 4 of the description.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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19 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALE R. COOK
1756-114TH AVENUE SE, #110
BELLEVUE, WA 98004

In re Application of :
SEARETE LLC :
PCT No.: PCT/US2006/044770 : DECISION
Int. Filing Date: 16 November 2006 :
Priority Date: 18 November 2005 : ON PETITION UNDER
Docket No.: 03050362JWO1 :
For: REAL-WORLD PROFILE DATA FOR MAKING VIRTUAL WORLD CONTACTS : 37 CFR 1.10(c)

This decision is in response to applicant's Petition Under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office on 26 September 2007.

BACKGROUND

Applicant filed international application PCT/US2006/044770 via Express Mail.

On 26 January 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 17 November 2007.

On 26 September 2007, applicant submitted a petition to correct the international filing date of the application.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 16 November 2006. The mailing label lists the "date in" as 16 November 2006. Under 37 CFR 1.10(a), correspondence delivered to the Office by "Express Mail" will be considered filed 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." 37 CFR 1.10(a).

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes a true copy of the Express Mail mailing label and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. (1) The petition was promptly filed. (2) The

Express Mail mailing label number was included with the application papers. (3) Applicant provided a photocopy of the Express Mail mailing label.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 16 November 2006 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 26 January 2007, is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

03050362JWO1

PCT/US06/44770

PCT REQUEST

Original (for SUBMISSION)

0	**For receiving Office use only**	
0-1	International Application No.	PCT/US 06/44770
0-2	International Filing Date	16 NOV 2006 (16.11.2006) CORRECTED RO/US
0-3	Name of receiving Office and "PCT International Application"	PCT INTERNATIONAL APPLICATION RO/US
0-4	**Form PCT/RO/101 PCT Request**	
0-4-1	Prepared Using	PCT-SAFE [EASY mode] Version 3.51.002.177 MT/FOP 20060301/0.20.4rc.2.7
0-5	**Petition** The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty	
0-6	**Receiving Office (specified by the applicant)**	United States Patent and Trademark Office (USPTO) (RO/US)
0-7	**Applicant's or agent's file reference**	03050362JWO1
I	**Title of Invention**	REAL-WORLD PROFILE DATA FOR MAKING VIRTUAL WORLD CONTACTS
II	**Applicant**	
II-1	This person is	applicant only
II-2	Applicant for	all designated States except US
II-4	Name	SEARETE LLC
II-5	Address	1756 - 114th Ave. SE, Suite 110 Bellevue, Washington 98004 United States of America
II-6	State of nationality	
II-7	State of residence	US
III-1	**Applicant and/or Inventor**	
III-1-1	This person is	applicant and inventor
III-1-2	Applicant for	US only
III-1-4	Name (LAST, First)	JUNG, Edward K.Y.
III-1-5	Address	13420 NE 36th Street Bellevue, Washington 98005-1403 United States of America
III-1-6	State of nationality	US
III-1-7	State of residence	US

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
DALE R. COOK
1756-114TH AVENUE SE, #110
BELLEVUE, WASHINGTON 98004

Confirmation No: 2721

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.5(c))

Date of mailing *(day/month/year)*	23 Nov 2007
Applicant's or agent's file reference: 03050362JWO1	**IMPORTANT NOTIFICATION**

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2006/044770	16 Nov 2006	18 Nov 2005

Applicant: SEARETE LLC

Title of the invention: REAL-WORLD PROFILE DATA FOR MAKING VIRTUAL WORLD CONTACTS

1. The applicant is hereby notified that the international application has been accorded the international application number and the international filing date indicated above.

2. The applicant is further notified that the record copy of the international application:

☒ was transmitted to the International Bureau on 26 Jan 2007

☐ has not yet been transmitted to the International Bureau for the reason indicated below and a copy of this notification has been sent to the International Bureau*:

☐ because the necessary national security clearance has not yet been obtained.

☐ because *(reason to be specified)*:

* The International Bureau monitors the transmittal of the record copy by the receiving Office and will notify the applicant (with Form PCT/IB/301) of its receipt. Should the record copy not have been received by the expiration of 14 months from the priority date, the International Bureau will notify the applicant (Rule 22.1(c)).

3. FOREIGN TRANSMITTAL LICENSE INFORMATION Completed by: NT

☐ Additional license for foreign transmittal not required. This subject matter is covered by a license already granted or the equivalent U.S. national application. Refer to that license for information concerning its scope.

☐ License for foreign transmittal not required. 37 CFR. 5.11(e)(1) or 37 CFR 5.11(e)(2). However, a license may be required for additional subject matter. See 37 CFR 5.15(b).

☒ Foreign transmittal license granted. 35 U.S.C. 184; 37 CFR 5.11 on 22 Jan 2007 (date):

☒ 37 CFR 5.15(a) ☐ 37 CFR 5.15(b)

Name and mailing address of the receiving Office	Authorized officer
Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	Erin Thomson EPT
Facsimile No. 571-273-3201	Telephone No. 571-272-3292

Form PCT/RO/105 (July 1992)

15 JAN 2009

United States Patent and Trademark Office

Commissioner for Patents
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GARY S. ENGELSON
LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

In re Application of	:	
TIAX LLC	:	
PCT No.: PCT/US2006/044816	:	
Int. Filing Date: 17 November 2006	:	DECISION
Priority Date: 17 November 2005	:	
Attorney's Docket No.: T2001-7011WO	:	
For: Linear Electronic Machine For Electric Power Generation Or Motive Drive	:	

This is in response to applicants' "Request To Rescind..." filed on 21 April 2008, a copy of which was filed on 17 November 2008.

BACKGROUND

Applicant filed this international application on 17 November 2006, and claimed a priority date of 17 November 2005.

On 07 March 2008, and Invitation To Pay Additional Fees (Form PCT/ISA/206) was mailed to applicant.

On 07 April 2008, applicant filed a Response, including the $1800.00 in additional fees.

On 01 May 2008, an International Search Report (Form PCT/ISA/210) was issued.

DISCUSSION

Applicant "requests to rescind the response to invitation to pay additional fees as filed on April 7, 2008 if it is possible to obtain a refund of the search fees paid on that day." 37 CFR 1.26(a) states in part that

> *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, further review of the record reveals that the International Search Report was issued, based as though the additional fees had not been paid. 35 U.S.C. 376(b) provides that

> *The amounts of fees specified in subsection (a) of this section, except the international fee and the handling fee, shall be prescribed by the Director. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Director may also refund any*

part of the search fee, the national fee, the preliminary examination fee and any additional fees, where he determines such refund to be warranted.

Based on the particular circumstances present in this application, it would be appropriate to grant the requested refund under 35 U.S.C. 376(b).

DECISION

Applicant's refund request is **GRANTED**, to the extent described above.

Accordingly, $1800.00 (fee code 1604) will be refunded to counsel's Deposit Account 50-2762, per the authorization included in the instant "Request To Rescind..."

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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13 JUL 2007

BRUCE E. WEIR
ATTORNEY AT LAW
20203 GOSHEN ROAD #385
GAITHERSBURG, MD 20879

In re Application of BREWER	:	
PCT Application No.: PCT/US2006/045048	:	
Int. Filing Date: 21 November 2006	:	DECISION
Priority Date Claimed: 23 November 2005	:	
Attorney Docket No.: 0234	:	
For: TURBINE	:	

This is in response to applicant's "Renunciation of Appointment as Agent" filed 03 July 2007.

BACKGROUND

On 21 November 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 03 July 2007, applicant filed the present request to withdraw as agent under PCT Rule 90.6.

DISCUSSION

PCT Rule 90.6(d) states, "An agent or a common representative may renounce his appointment by a notification signed by him." In the present case, the renunciation request is signed by the appointed agent Bruce Weir.

MPEP 1808 states in part,

> U.S. attorneys or agents wishing to withdraw from representation in international applications may request to do so. . . . The PTO usually requires that there be at least 30 days between approval of withdrawal and the expiration date of a time response period so that the applicant will have sufficient time to

obtain other representation or take other action. If less than 30 days remains in a running response period, a request to withdraw is normally disapproved.

A review of the application file reveals that no running response period with less than thirty days remains in relation to the present international application.

CONCLUSION

For the reasons above, the request under PCT Rule 90.6 is GRANTED.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

PATENT COOPERATION TREATY

Int. Appl. No.	:	PCT/US2006/045048
Applicant	:	BREWER, Christopher
Int. Filing Date	:	21 Nov 2006
Priority Date	:	23 Nov 2005
File Reference	:	0234

RECEIVED
3 JUL 2007
Legal Staff
International Division

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

RENUNCIATION OF APPOINTMENT AS AGENT

Sir:

I hereby renounce my appointment as agent in connection with the above-referenced application. Please direct all future communications regarding this application to the inventor, Christopher Brewer, at 410 Homestead Road, Lavina, MT USA, 59046.

Respectfully submitted,

16 March 2007

Bruce E. Weir
Reg. No. 48,191
Tel.: (301) 977-6009

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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08 JUN 2007

Samuel M. Korte
HOVEY WILIAMS LLP
2405 Grand Boulevard
Suite 400
Kansas City, MO 64108

In re Application of:	:	
DOERING, Christopher	:	DECISION
PCT Application No.: PCT/US06/45054	:	
Int. Filing Date: 21 November 2006	:	UNDER
Priority Date: 08 December 2005	:	
Atty Docket No.: 36677-PCT	:	
For: INTEGRATED DIGITAL CONTROL FOR STRINGED MUSICAL INSTRUMENTS	:	37 CFR § 1.181

This decision is in response to applicant's "REQUEST FOR CORRECTION OF INTERNATIONAL FILING DATE" filed 29 March 2007, which has been treated as a petition under 37 CFR § 1.181. No petition fee is required.

BACKGROUND

As indicated on the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed on 08 February 2007, the present application has been accorded an international filing date of 20 November 2006 by the United States Receiving Office (RO/US).

On 29 March 2007, applicant filed the present petition requesting the international filing date be corrected to 21 November 2006. The petition was accompanied by, *inter alia*, a copy of the transmittal letter listing the file reference number and having the USPTO stamped date of 20 November 2006 thereon.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be amended to 21 November 2006.

The present petition was filed promptly. The "Express Mail" Label No. 888981792US is listed on the transmittal letter accompanying the Request. The "Express Mail" mailing label of record in the application file indicates that the "Date-in" for the present international application is 21 November 2006.

Accordingly, the office improperly stamped the paper 20 November 2006.

CONCLUSION

Applicant's petition requesting the international filing date be corrected to 21 November 2006 is **GRANTED**.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 21 November 2006 will be mailed with this decision. A corrected first page of the REQUEST with the international filing date of 21 November 2006 will also be mailed. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 08 February 2007 is hereby **VACATED**.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Copy to:
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Alexandria, VA 22313-1450
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13 SEP 2007

GOKALP BAYRAMOGLU
5202 INDEPENDENCE DR
PLEASANTON, CALIFORNIA 94566

In re Application of
AWQ CONSULTING, INC. et al.
PCT No.: PCT/US06/45186
Int. Filing Date: 22 November 2006
Priority Date: 13 December 2005
Attorney's Docket No.: None
For: Low Emission Signal Generator And Distribution System

DECISION ON

PETITION

UNDER 37 CFR 1.446

This decision is in response to applicants' petition for refund filed 15 February 2007, which has been treated as a petition under 37 CFR 1.446.

BACKGROUND

On 22 November 2006, applicants filed international application PCT/US06/45186, claiming a priority date of 13 December 2005. The application included a $300 transmittal fee, a $300 search fee, a $1,086 international fee and a $20 fee for transmission to the International Bureau of a certified priority document.

On 24 January 2007, the United States Receiving Office (US/RO) mailed the following: Notification Concerning Payment of Fees (Form PCT/RO/102); Notification of the International Application Number and International Filing Date (Form PCT/RO/105); Invitation To Correct Defects In The International Application (PCT/RO/106) and, Invitation To Correct Priority Claim (Form PCT/RO/110). Specifically, the Notification Concerning Payment of Fees (Form PCT/RO/102) indicated that an additional $756 was due for payment ($700 for the international search fee; $36 for an additional three pages of description and $20 for transmission to the International Bureau of a certified priority document).

On 12 February 2007, applicants filed a response to the Notification Concerning Payment of Fees (Form PCT/RO/102) mailed 24 January 2007, including a check for $756. In the response, applicants stated that because the instant international application is claiming priority to a US national application filed under 35 U.S.C 111(a), US Serial No. 11/592,873, the international search fee should be the reduced fee of $300 and not the full fee of $1,000. As such, applicants requested a refund of $700.

DISCUSSION

37 CFR 1.445 (a)(2)(i) states that the search fee is $300 if:

> a corresponding prior United States national application under 35 U.S.C. 111(a) has been filed on or after December 8, 2004, the basic filing fee under § 1.16(a), search fee under § 1.16(k), and examination fee under § 1.16(o) have been paid therein, and the corresponding prior United States national application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application. (Underlining added).

In this case, the prior US national application (11/592,873) was filed on 06 November 2006 and was identified on the Request (Form PCT/RO/101) by a different filing date of 25 October 2006. Furthermore, the title, the name of the applicant and the application docket number were not included in the international application or accompanying papers at the time of filing the international application. Therefore, the conditions of 37 CFR 1.445 have not been satisfied.

37 CFR 1.446 (a) permits a refund when,

> "Money paid for international application fees, where paid by actual mistake or in excess, such as a payment not required by law or treaty and its regulations."

In this case, because the conditions of 37 CFR 1.445 were not satisfied, applicants were not entitled to the reduced search fee of $300. Hence, the disputed $700 was not paid by "actual mistake or in excess,' because applicants were required to pay the full search fee of $1,000. See 37 CFR §1.445 (a)(2)(iii). Therefore, applicants are not entitled to the requested refund of $700.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.446 **DISMISSED** without prejudice.

The application is transmitted to the International Stage Processing Division of the PCT Operations for continued processing according to this decision.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
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0 5 DEC 2007

Gary L. Loomis
G. L. LOOMIS & ASSOCIATES, INC.
990 Highland Drive
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Solana Beach, CA 92075

In re Application of	:	
Q-ELECTRIC, LLC	:	
PCT No.: PCT/US06/45531	:	DECISION UNDER
Date of Receipt: 28 November 2006	:	37 CFR 1.181
Priority Date: 29 November 2005	:	
Agent's File Reference: QEL-06002	:	
For: SHIPPING CONTAINER CONVERTABLE	:	
TO A TRAILER	:	

Applicant's petition under 37 CFR 1.181 requesting that the copy of drawing sheets nos. 1/10-10/10 filed with the present petition be accepted in lieu of the originals purportedly filed on 28 November 2006 has been received.. No petition fee is required. The petition is **DISMISSED** as follows:

BACKGROUND

On 28 November 2006, applicant filed international application PCT/US06/45531, which claimed priority to a U.S. application filed 29 November 2005. The United States Receiving Office (RO/US) indicated on the return receipt postcard that no drawings were included with the application papers.

On 19 December 2006, applicant filed the present petition forwarding a copy of drawing sheets nos. 1/10-10/10 and a copy of the return receipt postcard.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicant has not

provided sufficient evidence that drawing sheets nos. 1/10-10/10 included with the present petition were filed on 28 November 2006. The return receipt postcard contains an annotation by the RO/US that no drawings were included with the application as originally filed. Therefore, the copy of the return receipt postcard filed in support of the present petition does not constitute *prima facie* evidence of receipt in the Office of drawing sheets nos. 1/10-10/10. Counsel's statements in the present petition do not overcome the annotated postcard receipt which indicates that drawing sheets nos. 1/10-10/10 were not present with the application papers on filing. The return receipt postcard was annotated contemporaneously upon receipt by a disinterested USPTO employee. The present petition was filed three weeks after the mailing of the original application papers and appears to be based on practitioner's routine business practice rather than any specific recollection of the filing of the instant application. Therefore, the evidence is not sufficient to establish receipt of drawing sheets nos. 1/10-10/10 with the original application papers. Accordingly, the copies of drawing sheets nos. 1/10-10/10 filed with the present petition cannot be accepted has having been filed on 28 November 2006 with the original application papers.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED without prejudice.**

If reconsideration of the merits of this petition is desired, applicants are hereby accorded 2 (TWO) MONTHS from the mailing date of this decision to file a request for reconsideration. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/RC:jf

(571) 272- 3284

UNITED STATES PATENT AND TRADEMARK OFFICE

23 JUL 2007

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

Elizabeth Parsons
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

In re Application of:	:	
JAROTH, INC.	:	DECISION
PCT Application No.: PCT/US06/045804	:	
Int. Filing Date: 30 November 2006	:	UNDER
Priority Date: 01 December 2005	:	
Atty Docket No.: P09510004P001PC	:	
For: CABINET MONITORING AND REPORTING APPARATUS AND SYSTEM	:	37 CFR § 1.181

Applicants' response to the "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107 mailed 12 January 2007) which was received on 25 January 2007 is being treated as a petition under 37 CFR 1.181 requesting that the copy of drawing sheets no. 1/5-5/5 (Figures 1-4B) filed with the present petition be accepted. No petition fee is required.

BACKGROUND

On 30 November 2006, applicant filed international application PCT/US06/045804, which claimed priority to a U.S. application filed on 01 December 2005.

On 12 January 2007, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) informing applicants that page 5, Figs 1-4 was not included with the application papers on filing.

On 25 January 2007, applicants filed the present petition forwarding, inter alia, a copy of the drawing sheets nos. 1/5-5/5 (Figures 1-4B) and a return receipt post card indicating receipt of 5 pages of drawing on 30 November 2006 by the USPTO.

DISCUSSION

MPEP section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicant has provided sufficient evidence that drawing sheets nos. 1/5-5/5 (Figures 1-4B) included with the present petition were filed on 30 November 2006. The petition indicates that the copy of the drawing sheets 1/5-5/5 (Figures 1-4B) attached hereto is a true copy of the original filed 30 November 2006. The copy of the return receipt postcard itemizes, inter alia, "Drawings (5 pgs)". Accordingly, the copy of the drawing sheets nos. 1/5-5/5 (Figures 1-4B) filed with the present petition may properly be ACCEPTED as having been filed on 30 November 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The present application is being forwarded to the RO/US for the treating of drawing sheets 1/5-5/5 (Figures 1-4B) filed with the present petition as having been filed on 30 November 2006 and to forward a copy of drawing sheets no. 1/5-5/5 (Figures 1-4B) to the International Bureau and the International Searching Authority along with a copy of this decision.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Shian Luong
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Telephone: (571) 272-4557

Copy to:
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1211 Geneve 20 (SUISSE)

UNITED STATES PATENT AND TRADEMARK OFFICE

23 JUL 2007

Commissioner for Patents
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Alexandria, VA 22313-1450
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Elizabeth Parsons
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

In re Application of:	:	
JAROTH, INC.	:	DECISION
PCT Application No.: PCT/US06/045804	:	
Int. Filing Date: 30 November 2006	:	UNDER
Priority Date: 01 December 2005	:	
Atty Docket No.: P09510004P001PC	:	
For: CABINET MONITORING AND REPORTING APPARATUS AND SYSTEM	:	37 CFR § 1.181

Applicants' response to the "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107 mailed 12 January 2007) which was received on 25 January 2007 is being treated as a petition under 37 CFR 1.181 requesting that the copy of drawing sheets no. 1/5-5/5 (Figures 1-4B) filed with the present petition be accepted. No petition fee is required.

BACKGROUND

On 30 November 2006, applicant filed international application PCT/US06/045804, which claimed priority to a U.S. application filed on 01 December 2005.

On 12 January 2007, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) informing applicants that page 5, Figs 1-4 was not included with the application papers on filing.

On 25 January 2007, applicants filed the present petition forwarding, inter alia, a copy of the drawing sheets nos. 1/5-5/5 (Figures 1-4B) and a return receipt post card indicating receipt of 5 pages of drawing on 30 November 2006 by the USPTO.

DISCUSSION

MPEP section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicant has provided sufficient evidence that drawing sheets nos. 1/5-5/5 (Figures 1-4B) included with the present petition were filed on 30 November 2006. The petition indicates that the copy of the drawing sheets 1/5-5/5 (Figures 1-4B) attached hereto is a true copy of the original filed 30 November 2006. The copy of the return receipt postcard itemizes, inter alia, "Drawings (5 pgs)". Accordingly, the copy of the drawing sheets nos. 1/5-5/5 (Figures 1-4B) filed with the present petition may properly be ACCEPTED as having been filed on 30 November 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The present application is being forwarded to the RO/US for the treating of drawing sheets 1/5-5/5 (Figures 1-4B) filed with the present petition as having been filed on 30 November 2006 and to forward a copy of drawing sheets no. 1/5-5/5 (Figures 1-4B) to the International Bureau and the International Searching Authority along with a copy of this decision.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Shian Luong
PCT Special Programs Examiner
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Telephone: (571) 272-4557

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0 5 MAR 2007

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FRANK J. CAMPIGOTTO
MICHELIN NORTH AMERICA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
515 MICHELIN ROAD
GREENVILLE SC 29605

In re Application of	:	
SOCIETE DE TECHNOLOGIE MICHELIN	:	DECISION ON
PCT No.: PCT/US06/45869	:	
Int. Filing Date: 30 November 2006	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: P50-0217	:	37 CFR 1.181
For: SUPPORT FOR TREAD BAND BUFFING	:	

This decision is in response to applicant's "RESPONSE TO NOTIFICATION DATED JANUARY 24, 2007 AND PETITION PURSUANT TO 37 CFR 1.181" filed via facsimile transmission on 30 January 2007. No petition fee is due.

BACKGROUND

On 24 January 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating, *inter alia*, the international filing date of the above-identified application as 30 November 2006.

On 24 January 2007, the RO/US also mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) indicating that page 10 of the claims was missing.

On 30 January 2007, applicant submitted the instant "RESPONSE TO NOTIFICATION DATED JANUARY 24, 2007 AND PETITION PURSUANT TO 37 CFR 1.181", which was accompanied by, *inter alia*, a copy of page 10 of the claims and a copy of a date-stamped postcard receipt.

DISCUSSION

The petition filed 30 January 2007 requests that the copy of page 10 of the claims filed 30 January 2007 be accepted as having been received by the RO/US on 30 November 2006.

Page 10 originally filed 30 November 2006 is in the application file (copy enclosed). Accordingly, the petition under 37 CFR 1.181 filed 24 January 2007 is moot.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED** as **MOOT** for the reasons set forth above.

The COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE mailed 24 January 2007 is **VACATED** for the reasons set forth above.

A copy of this decision along with a copy of page 10 of the claims is being mailed to the International Bureau of WIPO and the United States International Searching Authority (ISA/US).

This application is being forwarded to the RO/US for continued processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: page 10 of the claims originally filed 30 November 2006

CC: International Bureau of WIPO, ISA/US

8. A support roller for texturing a tread band, the roller comprising:

a cylindrical tread support surface; and

a plurality of groove support elements extending from the cylindrical tread support surface and corresponding to a predetermined tread pattern.

9. A support for texturing a tread band, the support comprising:

a continuous flexible tread support surface positioned about at least two support rollers; and

a plurality of groove support elements extending from the tread support surface and corresponding to a predetermined tread pattern;

wherein the tread support moves about the at least two support rollers.

10. A support for texturing a tread band, the support comprising:

a moveable tread support surface;

an inflatable membrane positioned about the moveable tread support surface;

wherein the inflatable membrane is partially filled to provide an expanded support projection capable of supporting a bottom of a groove of a tread band during an abrasion process of the sole side of the tread band.

11. The support of claim 10, wherein the moveable support surface is provided by a cylindrical drum roller.

0 5 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FRANK J. CAMPIGOTTO
MICHELIN NORTH AMERICA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
515 MICHELIN ROAD
GREENVILLE SC 29605

In re Application of	:	
SOCIETE DE TECHNOLOGIE MICHELIN	:	DECISION ON
PCT No.: PCT/US06/45869	:	
Int. Filing Date: 30 November 2006	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: P50-0217	:	37 CFR 1.181
For: SUPPORT FOR TREAD BAND BUFFING	:	

This decision is in response to applicant's "RÉSPONSE TO NOTIFICATION DATED JANUARY 24, 2007 AND PETITION PURSUANT TO 37 CFR 1.181" filed via facsimile transmission on 30 January 2007. No petition fee is due.

BACKGROUND

On 24 January 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating, *inter alia*, the international filing date of the above-identified application as 30 November 2006.

On 24 January 2007, the RO/US also mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) indicating that page 10 of the claims was missing.

On 30 January 2007, applicant submitted the instant "RESPONSE TO NOTIFICATION DATED JANUARY 24, 2007 AND PETITION PURSUANT TO 37 CFR 1.181", which was accompanied by, *inter alia*, a copy of page 10 of the claims and a copy of a date-stamped postcard receipt.

DISCUSSION

The petition filed 30 January 2007 requests that the copy of page 10 of the claims filed 30 January 2007 be accepted as having been received by the RO/US on 30 November 2006.

Page 10 originally filed 30 November 2006 is in the application file (copy enclosed). Accordingly, the petition under 37 CFR 1.181 filed 24 January 2007 is moot.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED** as **MOOT** for the reasons set forth above.

The COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE mailed 24 January 2007 is **VACATED** for the reasons set forth above.

A copy of this decision along with a copy of page 10 of the claims is being mailed to the International Bureau of WIPO and the United States International Searching Authority (ISA/US).

This application is being forwarded to the RO/US for continued processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: page 10 of the claims originally filed 30 November 2006

CC: International Bureau of WIPO, ISA/US

8. A support roller for texturing a tread band, the roller comprising:

a cylindrical tread support surface; and

a plurality of groove support elements extending from the cylindrical tread support surface and corresponding to a predetermined tread pattern.

9. A support for texturing a tread band, the support comprising:

a continuous flexible tread support surface positioned about at least two support rollers; and

a plurality of groove support elements extending from the tread support surface and corresponding to a predetermined tread pattern;

wherein the tread support moves about the at least two support rollers.

10. A support for texturing a tread band, the support comprising:

a moveable tread support surface;

an inflatable membrane positioned about the moveable tread support surface;

wherein the inflatable membrane is partially filled to provide an expanded support projection capable of supporting a bottom of a groove of a tread band during an abrasion process of the sole side of the tread band.

11. The support of claim 10, wherein the moveable support surface is provided by a cylindrical drum roller.

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29 AUG 2007

MUELLER, SMITH & MATTO
A LEGAL PROFESSIONAL ASSOCIATION
7700 RIVERS EDGE DRIVE
COLUMBUS, OHIO 43235

In re Application of :
AU, Jessie et al. :
PCT No.: PCT/US06/46296 :
Int. Filing Date: 04 December 2006 :
Priority Date: 02 December 2005 : DECISION
Attorney's Docket No.: TNI2021PC :
For: Methods And Compositions To Improve Activity And Reduce Toxicity Of Stents :

This decision is in response to applicants' communication filed on 12 February 2007, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 04 December 2006, applicants filed PCT/US06/46296 claiming an earlier priority date of 02 December 2005. Applicants designated the United States Patent and Trademark Office as the Receiving Office (RO/US) and the International Searching Authority (ISA/US).

On 05 February 2007, the United States Receiving Office (US/RO) mailed the following: Notification Concerning Payment of Fees (Form PCT/RO/102); Notification of the International Application Number and International Filing Date (Form PCT/RO/105); and Notification of Non-Inclusion of Drawings (Form PCT/RO/107). Specifically, the Notification of Non-Inclusion of Drawings (Form PCT/RO/107) stated that Figure 3, mentioned on page 10 of the Description, has not been provided.

On 12 February 2007, applicants filed the instant communication, including a copy of missing Figure 3.

DISCUSSION

In the same international application, the submission of drawing sheets later than the international filing date, is specifically provided for by, Article 14 of the Patent Cooperation Treaty (PCT) and PCT Rule 20.2(a). The Treaty requires that any drawing sheets submitted within 30 days from the international filing date be accepted and the international filing date be reset to the date on which the later submitted sheets were submitted. It is noted that Figure 3 has not been received within 30 days of the international filing date.

PCT Article 14(2) states that:

> "If the international application refers to drawings which, in fact, are not included in that application, the receiving Office shall notify the applicant accordingly and he may furnish them within the prescribed time limit and, if he does, the international filing date shall be date on which the drawings are received by the receiving office. Otherwise, any reference to the said drawings shall be considered non-existent."

Since the drawing (Figure 3) was not filed within the prescribed time limit (30 days from the international filing date of 04 December 2006), Figure 3 is considered to be non-existent.

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208
Facsimile: (571) 273-0459

United States Patent and Trademark Office

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

10 DEC 2007

JERRY K. MUELLER, JR
MUELLER SMITH & MATTO
A LEGAL PROFESSIONAL ASSOCIATION
7700 RIVERS EDGE DRIVE
COLUMBUS, OH 43235

In re Application of :
Au et al. :
PCT No.: PCT/US06/46296 :
Int. Filing Date: 04 December 2006 :
Priority Date: 02 December 2005 : DECISION
Attorney's Docket No.: TNI2021PC :
For: Methods And Compositions To Improve :
Activity And Reduce Toxicity Of Stents :

This is in response to applicants' renewed petition under 37 CFR 1.181 filed on 17 September 2007.

DISCUSSION

In a Decision mailed on 29 August 2007, the petition under 37 CFR 1.181 filed on 12 February 2007 was dismissed without prejudice. Citing PCT Article 14(2), the decision held that "since the drawing (Figure 3) was not filed within the prescribed time limit (30 days from the international filing date of 04 December 2006), Figure 3 is considered to be non-existent."

Petitioner urges that Fig. 3 "was included in with the drawings submitted at the filing of this application," in accordance with petitioner's "office policy." In support of this position, a "Declaration of Jane Keeney" is provided. Ms. Keeney describes the law firm's policy for copying application papers for the file copy. She states in part that "The firm's file copy for the above-identified PCT application includes Fig. 3" and that "She firmly believes that Fig. 3 was included in the application submitted for filing."

Ms. Keeney's "Declaration..." indicates that applicants *intended* to include Fig. 3 among the international application papers, and suggests that applicants *believed* Fig. 3 to be among the papers filed, but does not adequately demonstrate that Fig. 3 was actually included. Rather, the official records of the USPTO indicate that Fig. 3 in fact was not received. While Ms. Keeney's statement indicates that Fig. 3 was meant to be included, it does not preclude the possibility that it was instead omitted by mistake or oversight after the steps she describes but before the mailing of the international application papers (which would be consistent with the official record). If available, petitioner is urged to submit any available evidence (e.g., a returned postcard receipt) tending to show whether Fig. 3 was included among the papers which were received by the RO/US on the international filing date. In the absence of such evidence, it would not be appropriate to grant the requested relief at this time.

DECISION

The petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
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JERRY K. MUELLER, JR
MUELLER SMITH & MATTO
A LEGAL PROFESSIONAL ASSOCIATION
7700 RIVERS EDGE DRIVE
COLUMBUS, OH 43235

10 DEC 2007

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DEC 17 2007

MUELLER SMITH & MATTO

In re Application of
Au et al.
PCT No.: PCT/US06/46296
Int. Filing Date: 04 December 2006
Priority Date: 02 December 2005
Attorney's Docket No.: TNI2021PC
For: Methods And Compositions To Improve Activity And Reduce Toxicity Of Stents

DECISION

This is in response to applicants' renewed petition under 37 CFR 1.181 filed on 17 September 2007.

DISCUSSION

In a Decision mailed on 29 August 2007, the petition under 37 CFR 1.181 filed on 12 February 2007 was dismissed without prejudice. Citing PCT Article 14(2), the decision held that "since the drawing (Figure 3) was not filed within the prescribed time limit (30 days from the international filing date of 04 December 2006), Figure 3 is considered to be non-existent."

Petitioner urges that Fig. 3 "was included in with the drawings submitted at the filing of this application," in accordance with petitioner's "office policy." In support of this position, a "Declaration of Jane Keeney" is provided. Ms. Keeney describes the law firm's policy for copying application papers for the file copy. She states in part that "The firm's file copy for the above-identified PCT application includes Fig. 3" and that "She firmly believes that Fig. 3 was included in the application submitted for filing."

Ms. Keeney's "Declaration..." indicates that applicants *intended* to include Fig. 3 among the international application papers, and suggests that applicants *believed* Fig. 3 to be among the papers filed, but does not adequately demonstrate that Fig. 3 was actually included. Rather, the official records of the USPTO indicate that Fig. 3 in fact was not received. While Ms. Keeney's statement indicates that Fig. 3 was meant to be included, it does not preclude the possibility that it was instead omitted by mistake or oversight after the steps she describes but before the mailing of the international application papers (which would be consistent with the official record). If available, petitioner is urged to submit any available evidence (e.g., a returned postcard receipt) tending to show whether Fig. 3 was included among the papers which were received by the RO/US on the international filing date. In the absence of such evidence, it would not be appropriate to grant the requested relief at this time.

DECISION

The petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
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0 6 AUG 2008

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

David A. Casimir
CASIMIR JONES, S.C.
440 Science Drive
Suite 203
Madison, WI 53711

In re Application of:	:	
THE REGENTS OF THE UNIVERSITY OF MICHIGAN	:	DECISION
et al.	:	
PCT Application No.: PCT/US2006/046456	:	
Int. Filing Date: 04 December 2006	:	UNDER
Priority Date: 02 December 2005	:	
Atty Docket No.: UM-30163	:	
For: MICROFLUDIC CELL CULTURE MEDIA	:	37 CFR § 1.10 (d)
	:	

This decision is in response to applicant's "PETITION TO CHANGE THE INTERNATIONAL FILING RECEIPT DATE AND REQUEST TO RECORD A CHANGE" filed 27 May 2008, which has been treated as a petition under 37 CFR § 1.10(d). No petition fee is required.

BACKGROUND

As indicated on the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed on 24 September 2007, the present application has been accorded an international filing date of 05 December 2006 by the United States Receiving Office (RO/US).

On 27 May 2008, applicant filed the present petition requesting the international filing date be corrected to 04 December 2006.

On 31 July 2008, applicant filed a copy of the customer receipt for "Express Mail" label number EV125579685US. This receipt appears to bear an altered "Date in" date of 04 December 2006.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be corrected to 04 December 2006.

Any correspondence received by the United States Patent and Trademark Office ('Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Because the "Date in" date has been altered on the Express Mail label and does not clearly indicate a "Date in" date of 04 December 2006, the petition will be treated under the provision of 37 CFR § 1.10(d). 37 CFR § 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition was filed promptly as required under 37 CFR § 1.10(d)(1).

The Transmittal Letter filed with the international application identifies the "Express Mail" label number EV125579685US thus satisfying § 1.10(d)(2).

With regard to § 1.10(d)(3), petitioner has furnished a declaration by Maria Katirtzidakis, who deposited the Express mail package in question with the USPS. Applicant also submitted a

copy of the Track & Confirm email by USPS that the Express Mail package was "accepted" on 04 December 2006.

Based on the above evidence, pursuant to 37 CFR § 1.10(d), the international filing date is appropriately corrected to 04 December 2006.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 04 December 2006 is **GRANTED**. The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 24 September 2007 is hereby **VACATED.**

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 04 December 2006 will be mailed with this decision.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Notification of International Application Number And Of The International Filing Date (Form PCT/RO/105)

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes

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

27 JUL 2007

Gianna Arnold
MILES & STOCKBRIDGE P.C.
1751 Pinnacle Drive, Suite 500
McLean, VA 22102-3833

In re Application of	:	
LIGHTSTREAM TECHNOLOGIES	:	
PCT No.: PCT/US06/46611	:	DECISION UNDER
Int. Filing Date: 07 December 2006	:	37 CFR 1.181
Priority Date: 07 December 2005	:	
Agent's File Reference: CO5241-11644WO01	:	
For: METHOD AND APPARATUS FOR	:	
COOLING HIGH POWER FLASH LAMPS	:	

Applicants' response to the "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107 mailed 02 March 2007) which was received in the PCT Legal Office on 20 March 2007 is being treated as a petition under 37 CFR 1.181 requesting that the copy of drawing figures nos. 14a-14b filed with the present petition be accepted in lieu of the original filed on 07 December 2006. No petition fee is required. The petition is **DISMISSED** as follows:

BACKGROUND

On 07 December 2006, applicants filed international application PCT/US06/46611, which claimed priority to a U.S. application filed 07 December 2005.

On 02 March 2007, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107) informing applicants that drawing figures nos. 14a-14b were not included with the application papers on filing.

On 20 March 2007, applicants filed the present petition forwarding a copy of drawing figures nos. 14a-14b and a copy of the return receipt postcard indicating receipt of 15 sheets of drawings on 08 June 2006.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

The copy of the return receipt postcard itemizes, inter alia, "Drawings (15 pages)(Figs. 1-15)". However, the petition does not indicate that the copies of drawing figures nos. 14a-14b attached thereto are true copies of the originals filed on 07 December 2006. Accordingly, the copies of drawing figures nos. 14a-14b filed with the present petition may cannot be accepted as having been filed on 07 December 2006 at this time.

CONCLUSION

Applicants' petition under 37 CFR 1.181 to accept the copies of drawing figures nos. 14a-14b as having been filed on 07 December 2006 with the original application papers is **DISMISSED without prejudice.**

Applicants are hereby accorded TWO (2) MONTHS from the mailing date of this decision to file a response. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter directed to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BM:jf

(571) 272- 3284

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Gianna Arnold
MILES & STOCKBRIDGE P.C.
1751 Pinnacle Drive, Suite 500
McLean, VA 22102-3833

In re Application of	:	
LIGHTSTREAM TECHNOLOGIES	:	
PCT No.: PCT/US06/46611	:	DECISION UNDER
Int. Filing Date: 07 December 2006	:	37 CFR 1.181
Priority Date: 07 December 2005	:	
Agent's File Reference: CO5241-11644WO01	:	
For: METHOD AND APPARATUS FOR	:	
COOLING HIGH POWER FLASH LAMPS	:	

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.181" which was received in the Office of PCT Legal Administration on 24 September 2007 requesting that the copy of drawing figures nos. 14a-14b filed with the present renewed petition be accepted in lieu of the original filed on 07 December 2006. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 20 March 2007, applicants filed a petition under 37 CFR 1.181 forwarding a copy of drawing figures nos. 14a-14b and a copy of the return receipt postcard indicating receipt of 15 sheets of drawings on 08 June 2006. Applicants' petition did not include a statement that drawing figures nos. 14a-14b were true copies of the originals.

On 27 July 2007, the USPTO rendered a decision dismissing the petition under 37 CFR 1.181 on the grounds that applicants did not include a statement that the copies of drawing figures nos. 14a-14b were true copies of the originals filed on 07 December 2006. The decision accorded applicants a two month time period for the filing of a renewed petition.

On 24 September 2007, applicants filed the present renewed petition under 37 CFR 1.181 including a statement that the accompanying copies of drawing figures nos. 14a-14b are true copies of the originals filed on 07 December 2006.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon

on the date stamped thereon by the PTO".

The copy of the return receipt postcard filed with the petition under 37 CFR 1.181 filed 20 March 2007 itemizes, inter alia, "Drawings (15 pages)(Figs. 1-15)". The present renewed petition includes a statement that the copies of drawing figures nos. 14a-14b filed with the present renewed petition under 37 CFR 1.181 filed 24 September 2007 are true copies of the originals filed on 07 December 2006. Accordingly, the copies of drawing figures nos. 14a-14b filed with the present renewed petition may properly be **ACCEPTED** as having been filed with the original application papers on **07 December 2006**.

CONCLUSION

Applicants' petition under 37 CFR 1.181 to accept the copies of drawing figures nos. 14a-14b as having been filed on 07 December 2006 with the original application papers is **GRANTED.** The copies of drawing figures nos. 14a-14b filed 24 September 2007 are being treated as having been filed with the original application papers on 07 December 2006. The "NOTIFICATION OF NON-INCLUSION OF DRAWINGS WITH THE INTERNATIONAL APPLICATION" (Form PCT/RO/107 mailed 02 March 2007) was sent in error and is hereby **VACATED.**

A copy of this decision is being sent to the International Bureau.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BL:jf

(571) 272- 3284

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
P.O. Box 18
CH-1211 Geneve 20
SUISSE

30 JUL 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

Barry N. Young
Law Offices of Barry N. Young
200 Page Mill Road, Suite 102
Palo Alto California 94306

In re Application of
PHYLOGY, INC.
PCT No.: PCT/US06/46772
Int. Filing Date: 07 December 2006
Priority Date: 23 December 2005
Attorney Docket No.: P002-1101WO
For: HIGH PERFORMANCE ADSL LINE CONDITIONER SYSTEM AND METHOD

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Request to Enter Figure 9 of Drawing into the International Application" filed 05 June 2008 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 07 December 2006, applicant filed the above-captioned international application which claimed a priority date of 23 December 2005. Box IX of the PCT Request (PCT/RO/101) indicated that the international application included: a PCT Request (4 sheets); description (22 sheets), claims (6 sheets), abstract (1 sheet); and drawings (9 sheets), a fee calculation sheet, and a transmittal letter.

On 01 February 2007, the United States Receiving Office mailed the following: the Notification of Concerning Prescribed Fees (Form PCT/RO/102); Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105); and Notification of Receipt of Search Copy (Form PCT/ISA/202).

On 12 July 2007, the World Intellectual Property Organization (WIPO) published the above-identified international application. Figure 9 (sheet 8/9 of the drawings) was not included in the publication as part of the international application.

On 05 June 2008, applicant filed a "Request to Enter Figure 9 of Drawing into the International Application."

DISCUSSION

Applicant states in their present petition that nine (9) drawing sheets were received at the United States Patent and Trademark Office on 07 December 2006. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "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."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the applicant, title of invention, and the attorney docket number. The receipt itemizes (among other materials) nine sheets of drawings. The receipt is stamped "Rec'd. PCT/PTO 07 DEC 2006" across its face is sufficient to indicate that the nine sheets of drawings were received in the Office on 07 December 2006.

Based on applicant's statements and the return postcard, it is concluded that Figure 9 (sheet 8/9 of the drawings) accompanying the petition and identified on the application transmittal letter was included with the original application materials filed 07 December 2006. Therefore, Figure 9 (sheet 8/9 of the drawings) will be incorporated into the application and accorded a filing date of 07 December 2006.

CONCLUSION

For the reasons above, the petition is **GRANTED**.

The international application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) entering the copy of Figure 9 (sheet 8/9 of the drawings) filed 07 December 2006 as a replacement for the missing original; (2) reviewing the drawing sheet submitted on 07 December 2006; and (3) forwarding Figure 9 (sheet 8/9 of the drawings) to the International Bureau and to International Searching Authority.

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

cc: The International Bureau of WIPO
34 Chemin des Colombettes
1211 Geneva 20
SWITZERLAND

ST - 3A01

PCT LEGAL ROUTING SHEET

DATE _____

☐ Deliver attached material to PCT Operations.

☐ Return attached files to PCT File Room (Springfield warehouse)

☐ Return attached files to Patented/Abandoned Files (9200)

☐ Deliver attached documents to contractor for scanning into POWER

☐ Deliver attached materials to PCT contractor mailing staff for Fed Ex shipment to _____.

☐ Deliver attached materials to _____.

SUPPLEMENTAL INSTRUCTIONS:

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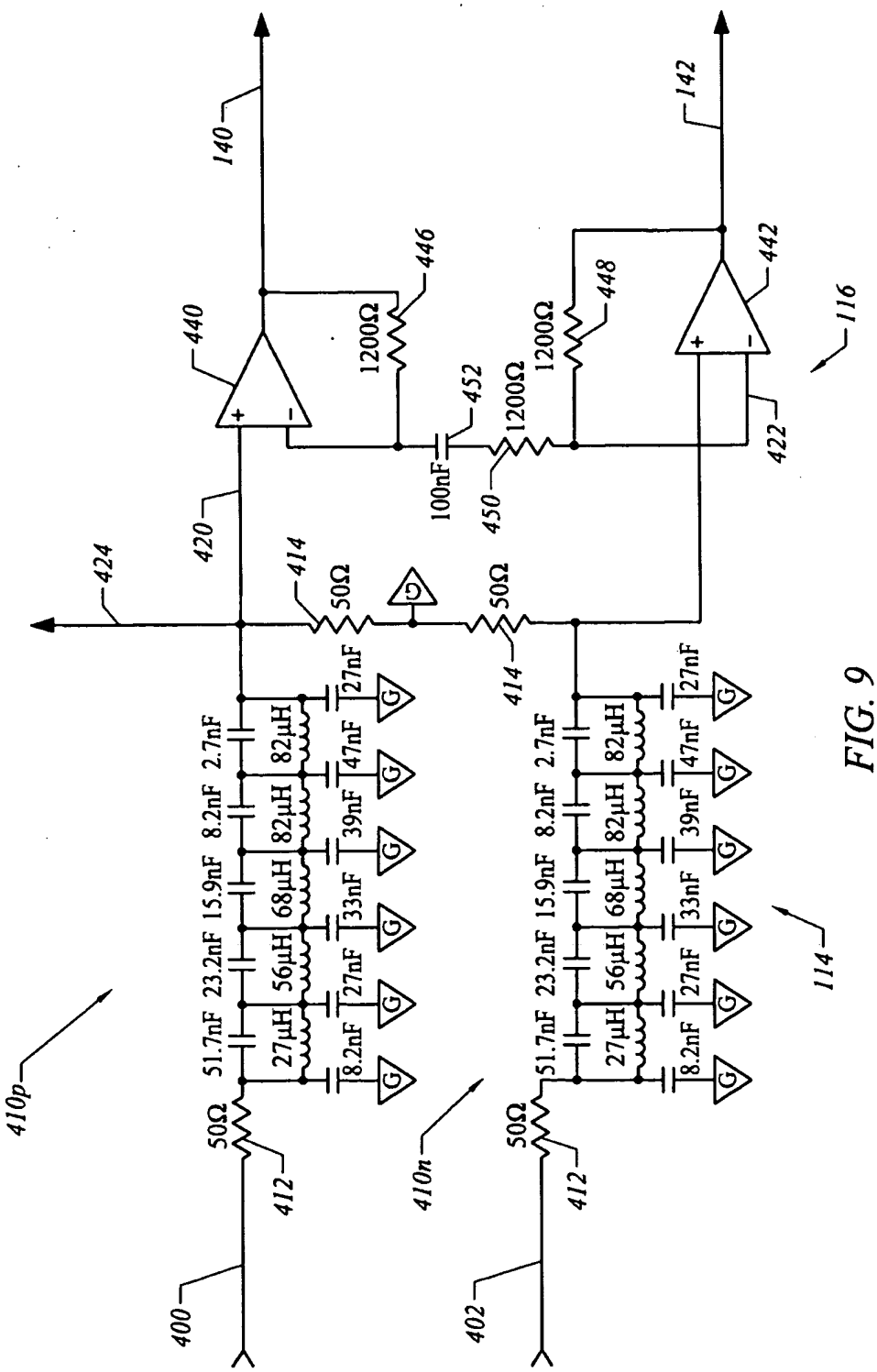
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FIG. 9

28 MAR 2007

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

MERCK & CO. INC.
126 East Lincoln Avenue
Rahway, NJ 07065-0907

In re Application of :
MERCK & CO. INC. :
PCT No.: PCT/US2006/047065 :
Int. Filing Date: 08 December 2006 :
Priority Date: 12 December 2005 :
Docket No.: PCT 21994 :
For: 2-ARYLTHIAZOLE DERIVATIVES AS CXCR3 RECEPTION MODULATORS :

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to applicant's "Petition to Correct Filing Date Pursuant to 37 C.F.R. §1.10" filed with the United States Receiving Office (RO/US) on 16 February 2007 which is treated as a petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicant filed international application PCT/US2006/047065 using Express Mail service claiming priority to a U.S. provisional application filed 12 December 2005.

On 18 January 2007, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date (IFD) of the subject application is 08 December 2006.

On 16 February 2007, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of Express Mail label No. EV835853655US.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be amended to 08 December 2006.

Any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the subject application reveals that all the requirements of 37 CFR 1.10(c) have been satisfied.

The Express Mail label number is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 08 December 2006. Applicant included a copy of the Customer Copy of Express Mail label No. EV835853655US which has a "Date Accepted" of "12 8 6." Moreover, a review of USPS Track/Confirm records for Express Mail label No. EV835853655US show that the documents were accepted by the USPS in Rahway, NJ at 5:38 pm on 08 December 2006.

Accordingly, applicant has met all the requirements of 37 CFR 1.10(c).

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 mailed 18 January 2007 is **VACATED**.

A corrected Form PCT/RO/105 indicating an IFD of **08 December 2006** will be mailed with this decision.

This application is being returned to the RO/US for further processing and for

the forwarding of a copy of this decision to the International Bureau.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

11 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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NICHOLAS A. ZACHARIADES
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

In re Application of	:	
U.S.A., SECRETARY OF AGRICULTURE	:	
PCT Application No.: PCT/US2006/047088	:	DECISION
Int. Filing Date: 08 December 2006	:	
Priority Date Claimed: 08 December 2005	:	
Attorney Docket No.: 800-267WO	:	
For: BACTERIOCIN INDUCER PEPTIDES	:	

This is in response to applicant's "Petition for Review By PCT Legal", filed 30 May 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 08 December 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 27 November 2007, the United States International Searching Authority (ISA/US) mailed an Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements (Form PCT/ISA/225).

On 20 May 2008, the ISA/US mailed, *inter alia*, a Declaration of Non-Establishment of International Search Report (Form PCT/ISA/203).

On 30 May 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that applicant never received Form PCT/ISA/225.

MPEP 711.03(c), Section I. A., states in relevant part:

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

limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition fails to include an adequate description of the practitioner's docketing system as discussed in MPEP 711.03(c). Furthermore, the petition fails to state that a search of the practitioner's records, including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. Additionally, a copy of the docket records used by the practitioner where the non-received Office action would have been entered had it been received has not been furnished.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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In re Application of	:	
U.S.A., SECRETARY OF AGRICULTURE	:	
PCT Application No.: PCT/US2006/047088	:	DECISION
Int. Filing Date: 08 December 2006	:	
Priority Date Claimed: 08 December 2005	:	
Attorney Docket No.: 800-267WO	:	
For: BACTERIOCIN INDUCER PEPTIDES	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181", filed 06 August 2008.

BACKGROUND

On 08 December 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 27 November 2007, the United States International Searching Authority (ISA/US) mailed an Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements (Form PCT/ISA/225).

On 20 May 2008, the ISA/US mailed, *inter alia*, a Declaration of Non-Establishment of International Search Report (Form PCT/ISA/203).

On 30 May 2008, applicant filed a petition under 37 CFR 1.181.

On 11 June 2008, this Office mailed a decision dismissing the 30 May 2008 petition.

On 06 August 2008, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that applicant never received Form PCT/ISA/225.

MPEP 711.03(c), Section I. A., states in relevant part:

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

The renewed petition includes an adequate description of the practitioner's docketing system as discussed in MPEP 711.03(c). Furthermore, the petition states that a search of the practitioner's records, including any file jacket or the equivalent, and the application contents, indicates that Form PCT/ISA/225 was not received. Additionally, a copy of the docket records used by the practitioner where Form PCT/ISA/225 would have been entered has been provided. Such docket records indicate an absence of any response due to Form PCT/ISA/225. Thus, it can be concluded with reasonable certainty that Form PCT/ISA/225 was never received.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The application is being forwarded to the ISA/US for consideration of applicant's response to Form PCT/ISA/225 filed 30 May 2008, including consideration of whether an International Search Report should be established.

Bryan Lin

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07 JUN 2007

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NEW YORK, NEW YORK 10036

In re Application of	:	
YISSUM RESEARCH DEVELOPMENT COMPANY OF	:	
THE HENBREW UNIVERSITY OF JERUSALEM et al.	:	DECISION ON
PCT No.: PCT/US06/47336	:	
Int. Filing Date: 11 December 2006	:	PETITION
Priority Date: 09 December 2005	:	
Attorney's Docket No.: 75386-A1-PCT/JPW/YC	:	UNDER 37 CFR 1.181
For: Use of Low-Dose Ladostigil For Neuroprotection	:	

This communication is issued in response to applicants' "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181" submitted on 01 June 2007.

BACKGROUND

On 11 December 2006, applicants filed international application PCT/US06/47336, claiming a priority date of 09 December 2005.

On 02 February 2007, the United States Receiving Office (RO/US) mailed "Notification Concerning Payment of Prescribed Fees" (Form PCt/RO/102) indicating that "this receiving Office has received: no or insufficient payment of the prescribed fees and the applicant is hereby invited to pay the balance due of...$3,058."

On 06 February 2007, the United States Receiving Office (RO/US) mailed "Notification of the International Application Number and of the International Filing Date' (Form PCT/RO/105); 'Invitation to Correct Defects in the International Application' (Form PCT/RO/106); 'Invitation to Correct Priority Claim' (Form PCT/RO/110); and 'Communication In Cases For Which No Other Form Is Applicable (Form PCT/RO/132).'

On 21 March 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) which indicated that a total of $3,601 in fees was due.

On 22 May 2007, the United States Receiving Office (RO/US) mailed a "Notification That International Application Considered To Be Withdrawn" (Form/PCT/RO/117) indicating that the international application was considered to be withdrawn for failure to pay the prescribed fess indicated in the "Invitation To Pay Prescribed Fees Together With Pate Payment Fee," mailed 21 March 2007.

On 01 June 2007, applicants filed the instant "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181."

DISCUSSION

Applicants state in the instant petition that, "the undersigned's office did not receive the Invitation (Form/PCT/RO/133) To Pay Prescribed Fees purportedly mailed March 21, 2007 by the U.S. Receiving Office." As such, applicants request that the "Notification That International Application Considered To Be Withdrawn," mailed 22 May 2007, be withdrawn.

Under MPEP §711.03(c)(I)(A), a proper showing in order to establish that papers were not received must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied.

As to Item (2), applicants have not provided a statement from the practitioner attesting that a search of the file jacket and docket records indicates that the papers were not received because the statement provided is drawn to an incorrect date, 02 March 2007. Further, it is noted that to date a signed Request Form (PCT/RO/101) has not been provided.

Regarding item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) was not received and misdocketed to another application. As documentary proof of non-receipt of the Office action, "if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted." MPEP §711.03(c)(I)(A). Accordingly, applicants are required to provide docket records for a period of one month beginning with 21 March 2007.

Thus, applicants have not provided the proper showing necessary to withdraw the "Notification That International Application Considered To Be Withdrawn" (Form PCT/RO/117) and the petition may not be properly granted.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **DISMISSED** without prejudice.

International application PCT/US06/47336 remains **WITHDRAWN**.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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07 JUN 2007

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NEW YORK, NEW YORK 10036

In re Application of	:	
YISSUM RESEARCH DEVELOPMENT COMPANY OF	:	
THE HENBREW UNIVERSITY OF JERUSALEM et al.	:	DECISION ON
PCT No.: PCT/US06/47336	:	
Int. Filing Date: 11 December 2006	:	PETITION
Priority Date: 09 December 2005	:	
Attorney's Docket No.: 75386-A1-PCT/JPW/YC	:	UNDER 37 CFR 1.181
For: Use of Low-Dose Ladostigil For Neuroprotection	:	

This communication is issued in response to applicants' "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181" submitted on 01 June 2007.

BACKGROUND

On 11 December 2006, applicants filed international application PCT/US06/47336, claiming a priority date of 09 December 2005.

On 02 February 2007, the United States Receiving Office (RO/US) mailed "Notification Concerning Payment of Prescribed Fees" (Form PCt/RO/102) indicating that "this receiving Office has received: no or insufficient payment of the prescribed fees and the applicant is hereby invited to pay the balance due of...$3,058."

On 06 February 2007, the United States Receiving Office (RO/US) mailed "Notification of the International Application Number and of the International Filing Date' (Form PCT/RO/105); 'Invitation to Correct Defects in the International Application' (Form PCT/RO/106); 'Invitation to Correct Priority Claim' (Form PCT/RO/110); and 'Communication In Cases For Which No Other Form Is Applicable (Form PCT/RO/132).'

On 21 March 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) which indicated that a total of $3,601 in fees was due.

On 22 May 2007, the United States Receiving Office (RO/US) mailed a "Notification That International Application Considered To Be Withdrawn" (Form/PCT/RO/117) indicating that the international application was considered to be withdrawn for failure to pay the prescribed fess indicated in the "Invitation To Pay Prescribed Fees Together With Pate Payment Fee," mailed 21 March 2007.

On 01 June 2007, applicants filed the instant "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181."

DISCUSSION

Applicants state in the instant petition that, "the undersigned's office did not receive the Invitation (Form/PCT/RO/133) To Pay Prescribed Fees purportedly mailed March 21, 2007 by the U.S. Receiving Office." As such, applicants request that the "Notification That International Application Considered To Be Withdrawn," mailed 22 May 2007, be withdrawn.

Under MPEP §711.03(c)(I)(A), a proper showing in order to establish that papers were not received must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied.

As to Item (2), applicants have not provided a statement from the practitioner attesting that a search of the file jacket and docket records indicates that the papers were not received because the statement provided is drawn to an incorrect date, 02 March 2007. Further, it is noted that to date a signed Request Form (PCT/RO/101) has not been provided.

Regarding item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) was not received and misdocketed to another application. As documentary proof of non-receipt of the Office action, "if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted." MPEP §711.03(c)(I)(A). Accordingly, applicants are required to provide docket records for a period of one month beginning with 21 March 2007.

Thus, applicants have not provided the proper showing necessary to withdraw the "Notification That International Application Considered To Be Withdrawn" (Form PCT/RO/117) and the petition may not be properly granted.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **DISMISSED** without prejudice.

International application PCT/US06/47336 remains **WITHDRAWN**.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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In re Application of	:	
YISSUM RESEARCH DEVELOPMENT COMPANY OF	:	
THE HENBREW UNIVERSITY OF JERUSALEM et al.	:	DECISION ON
PCT No.: PCT/US06/47336	:	
Int. Filing Date: 11 December 2006	:	PETITION
Priority Date: 09 December 2005	:	
Attorney's Docket No.: 75386-A1-PCT/JPW/YC	:	UNDER 37 CFR 1.181
For: Use of Low-Dose Ladostigil For Neuroprotection	:	

This communication is issued in response to applicants' "Request For Reconsideration Of June 7, 2007 Decision On Petition Under 37 C.F.R. §1.181" submitted on 15 June 2007.

BACKGROUND

On 11 December 2006, applicants filed international application PCT/US06/47336, claiming a priority date of 09 December 2005.

On 02 February 2007, the United States Receiving Office (RO/US) mailed "Notification Concerning Payment of Prescribed Fees" (Form PCT/RO/102) indicating that "this receiving Office has received: no or insufficient payment of the prescribed fees and the applicant is hereby invited to pay the balance due of...$3,058."

On 06 February 2007, the United States Receiving Office (RO/US) mailed "Notification of the International Application Number and of the International Filing Date' (Form PCT/RO/105); 'Invitation to Correct Defects in the International Application' (Form PCT/RO/106); 'Invitation to Correct Priority Claim' (Form PCT/RO/110); and 'Communication In Cases For Which No Other Form Is Applicable (Form PCT/RO/132).'

On 21 March 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) which indicated that a total of $3,601 in fees was due.

On 22 May 2007, the United States Receiving Office (RO/US) mailed a "Notification That International Application Considered To Be Withdrawn" (Form/PCT/RO/117) indicating that the international application was considered to be withdrawn for failure to pay the prescribed fess indicated in the "Invitation To Pay Prescribed Fees Together With Late Payment Fee," mailed 21 March 2007.

On 01 June 2007, applicants filed a "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181," indicating that the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133), mailed 21 March 2007, was never received.

On 07 June 2007, the Office mailed "Decision on Petition Under 37 CFR 1.181," dismissing the petition because the printout of the docket report for this specific application was found to be insufficient to establish that the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) was not received and misdocketed to another application.

On 15 June 2007, applicants filed the instant "Request For Reconsideration Of June 7, 2007 Decision On Petition Under 37 C.F.R. §1.181" including the docket record of all deadlines in the docketing system of the firm for the period of March 21, 2007 until April 21, 2007.

DISCUSSION

Applicants request that the "Notification That International Application Considered To Be Withdrawn," mailed 22 May 2007, be withdrawn.

Under MPEP §711.03(c)(I)(A), a proper showing in order to establish that papers were not received must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed (the docket record must also be referenced in practitioner's statement).

A review of the papers shows that items (1) and (2) have been satisfied.

Regarding item (3), the evidence of record is sufficient to establish with reasonable certainty that applicants did not receive the "Invitation To Pay Prescribed Fees Together With Late Payment Fee," mailed 21 March 2007. Hence, item (3) has been satisfied.

In view of applicants' authorization, the deficient fees of $3,601 will be charged to Deposit Account No. 03-3125.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED**.

The "Notification That International Application Considered To Be Withdrawn" (Form/PCT/RO/117) is **VACATED**.

The application is transmitted to the International Stage Processing Division of the PCT Operations for continued processing according to this decision.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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07 JUN 2007

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In re Application of	:	
YISSUM RESEARCH DEVELOPMENT COMPANY OF	:	
THE HENBREW UNIVERSITY OF JERUSALEM et al.	:	DECISION ON
PCT No.: PCT/US06/47336	:	
Int. Filing Date: 11 December 2006	:	PETITION
Priority Date: 09 December 2005	:	
Attorney's Docket No.: 75386-A1-PCT/JPW/YC	:	UNDER 37 CFR 1.181
For: Use of Low-Dose Ladostigil For Neuroprotection	:	

This communication is issued in response to applicants' "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181" submitted on 01 June 2007.

BACKGROUND

On 11 December 2006, applicants filed international application PCT/US06/47336, claiming a priority date of 09 December 2005.

On 02 February 2007, the United States Receiving Office (RO/US) mailed "Notification Concerning Payment of Prescribed Fees" (Form PCt/RO/102) indicating that "this receiving Office has received: no or insufficient payment of the prescribed fees and the applicant is hereby invited to pay the balance due of...$3,058."

On 06 February 2007, the United States Receiving Office (RO/US) mailed "Notification of the International Application Number and of the International Filing Date' (Form PCT/RO/105); 'Invitation to Correct Defects in the International Application' (Form PCT/RO/106); 'Invitation to Correct Priority Claim' (Form PCT/RO/110); and 'Communication In Cases For Which No Other Form Is Applicable (Form PCT/RO/132).'

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On 22 May 2007, the United States Receiving Office (RO/US) mailed a "Notification That International Application Considered To Be Withdrawn" (Form/PCT/RO/117) indicating that the international application was considered to be withdrawn for failure to pay the prescribed fess indicated in the "Invitation To Pay Prescribed Fees Together With Pate Payment Fee," mailed 21 March 2007.

On 01 June 2007, applicants filed the instant "Petition To Vacate Form PCT/RO/117 Under 37 C.F.R. §1.181."

DISCUSSION

Applicants state in the instant petition that, "the undersigned's office did not receive the Invitation (Form/PCT/RO/133) To Pay Prescribed Fees purportedly mailed March 21, 2007 by the U.S. Receiving Office." As such, applicants request that the "Notification That International Application Considered To Be Withdrawn," mailed 22 May 2007, be withdrawn.

Under MPEP §711.03(c)(I)(A), a proper showing in order to establish that papers were not received must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied.

As to Item (2), applicants have not provided a statement from the practitioner attesting that a search of the file jacket and docket records indicates that the papers were not received because the statement provided is drawn to an incorrect date, 02 March 2007. Further, it is noted that to date a signed Request Form (PCT/RO/101) has not been provided.

Regarding item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) was not received and misdocketed to another application. As documentary proof of non-receipt of the Office action, "if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted." MPEP §711.03(c)(I)(A). Accordingly, applicants are required to provide docket records for a period of one month beginning with 21 March 2007.

Thus, applicants have not provided the proper showing necessary to withdraw the "Notification That International Application Considered To Be Withdrawn" (Form PCT/RO/117) and the petition may not be properly granted.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **DISMISSED** without prejudice.

International application PCT/US06/47336 remains **WITHDRAWN**.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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UNITED STATES PATENT and TRADEMARK OFFICE

26 OCT 2007

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BELLEVUE WA WASHINGTON 98004

In re Application of	:	DECISION ON
SEARETE LLC	:	
PCT No.: PCT/US06/047451	:	
Int. Filing Date: 12 December 2006	:	
Priority Date: 20 December 2005	:	PETITION UNDER
Attorney's Docket No.: 110502034wo1	:	
For: COMPUTATIONAL AND/OR CONTROL	:	
SELECTION AND DOSING	:	37 CFR 1.181

This decision is in response to the "PETITION UNDER CFR 181 IN RESPONSE TO PCT/RO/117 NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN," filed on 11 May 2007. Applicant is requesting, in effect, that the withdrawal of the international application be vacated and that the international application be reinstated to an active status since the fees were paid prior to the notice of withdrawal of the international application.

BACKGROUND

On 12 December 2006, applicant filed international application PCT/US2006/04831 without payment of the prescribed fees.

On 24 January 2007, the United States Receiving Office (RO/US) mailed a "NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES" (Form PCT/RO/102) indicating that the receiving Office received no or insufficient payment of the prescribed fees and required payment of $3,598.00. The payment of the transmittal fee, search fee, and international filing fee were required to be made within one month of the receipt date of the international application.

On 08 March 2007, the United States Receiving Office mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105), which indicated a filing date of 12 December 2006.

On 12 March 2007, the United States Receiving Office mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133), which indicated that a total of $3,438.00 in fees were due including a late payment fee of $543.00 for a total amount of 3,981.00. The Invitation indicated that payment of the total amount indicated was due within one month from the date of mailing of that invitation. Applicants' attention was referred to PCT Rules 16 bis.1.

On 17 April 2007, applicant filed "RESPONSE TO NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES," which included a check in the amount of $3,520.00. In addition, applicant also authorized to charge any additional fees, as stated in the communication, "provided there is an underpayment relating to the Payment of Prescribed Fees in the above-referenced application, to Deposit Account No. 502857."

On 02 May 2007, the RO/US mailed a NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN (Form PCT/RO/117) indicating that the international application was considered to be withdrawn for failure to pay the prescribed fees indicated in the Form PCT/RO/133 mailed 12 March 2007.

On 11 May 2007, applicant filed the present petition.

DISCUSSION

A review of the application file reveals that applicant has paid the following: $543.00 late payment fee, the $300.00 transmittal fee, the $300.00 search fee, $1008.00 international filing fee, $1,752.00 for 146 sheets in excess of 30 sheets, and $160.00 for the priority documents for a total of $4,063.00.

PCT Rule 16bis.1 states:

> (e) Any payment received by the receiving Office before that Office makes the applicable declaration under Article 14(3) shall be considered to have been received before the expiration of the time limit referred to in paragraph (a) or (b).

A review of the international application reveals that applicant has paid all fees together with a late payment fee prior to expiration of the applicable time period because applicant had authorized to charge the Deposit Account if there was an underpayment.

Accordingly, the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN (Form PCT/RO/117) forwarded to the applicant and the International Bureau on 02 May 2007 is hereby withdrawn.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. Form PCT/RO/117, mailed 02 May 2007 is hereby **VACATED,** and international application PCT/US06/047451 is reinstated.

This application is being forwarded to the RO/US section of the Office of PCT Operations for further processing. A copy of this decision will forwarded to the International Bureau.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

CC: The International Bureau of WIPO
34, Chemin des Colombettes
P.O. Box 18
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19 FEB 2008

Richard J. Berman
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In re Application of	:	
VENTRIA BIOSCIENCE ET AL.	:	
PCT No.: PCT/US06/47605	:	DECISION UNDER
Int. Filing Date: 14 December 2006	:	37 CFR 1.181
Priority Date: 15 December 2005	:	
Agent's File Reference: 023231-00025	:	
For: ORAL ADMINISTRATION OF DEFENSINS	:	
TO TREAT INTESTINAL DISEASES	:	

Applicants' 12 June 2007 communication is being treated as a petition under 37 CFR 1.181 requesting that the copies of proposed replacement sheets nos. 7 and 12 of the description and 14 of the claims (claims 8-12) filed with the present petition be accepted in lieu of the originals filed on 14 December 2006 with the original application papers. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 14 December 2006, applicants filed international application PCT/US06/47605, which claimed priority to a U.S. application filed 15 December 2005.

On 26 March 2007, The International Bureau of WIPO mailed a "COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE" (Form PCT/IB/345) informing applicants that 2 sheets of the description and 1 sheet of the claims were missing.

On 12 June 2007, applicants filed the present petition forwarding, inter alia, a copy of proposed replacement sheets nos. 7 and 12 of the description and sheet no. 14 of the claims and a copy of the return receipt postcard indicating receipt of "Specification (15pp)" on 14 December 2006.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicants have provided sufficient evidence that proposed replacement sheets nos. 7 and 12 of the description and sheet no. 14 of the claims included with the present petition were filed on 14 December 2006 with the original application papers. The petition indicates that the 12 pages of the description and 2 pages of claims submitted therewith are "as originally filed on December 14, 2006. This statement is construed to mean that the copies of sheets nos. 7 and 12 of the description and sheet no. 14 of the claims attached attached to the petition are true copies of the originals filed on 14 December 2006. If this is incorrect, applicants must immediately notify the Office of PCT Legal Administration. The copy of the return receipt postcard itemizes, as being received by the RO/US, "Specification (15pp)". A review of the application file reveals that the total number of sheets of the description, claims and abstract equal 15, which is the total as indicated in Box No. IX of the PCT Request. Accordingly, the copies of sheets nos. 7 and 12 of the description and sheet no. 14 of the claims (claims 8-12) filed with the present petition may properly be **ACCEPTED** as having been filed on **14 December 2006.**

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED.**

Sheets nos. 7 and 12 of the description and sheet no. 14 of the claims filed with the present petition will be treated by the RO/US as having been filed on 14 December 2006. Copies of sheets nos. 7 and 12 of the description and sheet no. 14 of the claims will be sent to the International Bureau.

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Copy to:
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30 MAR 2007

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In re Application of NELSON C. DONES	:	DECISION ON
PCT No.: PCT/US06/47943	:	
Int. Filing: 15 December 2006	:	PETITION
Priority Date: 14 December 2005	:	
Attorney Docket No.: OOO829/0004	:	UNDER 37 CFR 1.10(d)
For: APPARATUS FOR A BASKETBALL NET FOR DISPLAY-ING ADVERTISEMENT....	:	

This decision is in response to applicant's "Petition Requesting Correction of Filing Date under 37 CFR 1.10(d)", filed in the United States Patent and Trademark Office (USPTO) on 10 January 2007, to accord a filing date of 14 December 2006 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/47943 with the United States Receiving Office, claiming a priority date of 14 December 2005 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 15 December 2006.

On 10 January 2007, applicants filed the present request, including, *inter alia*, a copy of the Customer Receipt of the "Express Mail" mailing label and declaration of James Hines

DISCUSSION

37 CFR 1.10(b) states:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon."

(Emphasis added.)

In the instant case, a transmittal letter was included with the original application papers. The "Express Mail" mailing label number is located on the Certificate of Mailing, which accompanied the application papers. Applicant's copy of the "Express Mail" mailing label indicated a "Date-In" of "12/15/06". There is no USPS barrel-stamp located on the customer

copy. This is a clear, indication that the Express mailing was not deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked with the requested deposit date of 14 December 2006. Persons dealing indirectly with the employees of the USPS do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Further, a review of the USPS "Track and Confirm" statement indicates that Express Mail label #EV626512927US was accepted at 1:52 AM on 15 December 2006, the filing date the USPTO accorded to the application. Applicant's Customer Copy of the Express Mail label, did not bear the date-in or USPS barrel date-stamp bearing the requested filing date 14 December 2006.

Where, as here, applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable. 37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

As discussed above, Petitioner satisfied Items (1) and (2).

In support of his petition under 37 CFR 1.10(d)(3) , Counsel relies on the declaration of James Hines, an employee of Urban Express, who works with the law firm's mailroom personnel. Mr. Hines describes "Urban Express' normal and customary" procedures employed in the collection of Express Mail packages. Mr. Hines states that the individual couriers record their pickup and delivery times on the "Delivery Manifest" and such times are also noted on the Datatrac delivery tracking software. Attached to his declaration are copies of these two documents. A statement by the involved USPS employee or the individual Urban Express courier was not provided.

The entry at issue is found on the second page of the Delivery Manifest and not entirely legible with some of the time cut off. The entry contains a reference number assigned by the courier service, the place and the time of pickup and deposit. However, the Manifest does not contain other critical information including the "Express Mail" number; the application number, attorney docket number or other such file identification number; and the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The Datatrac evidence (Exhibit B) seems to indicate that Delivery Date is "12/15/06" at

"0:40" and is only identified by a control number, not the application number. Exhibit C also seems to indicate a pickup of "12/14/06" at "20:00". The driver's note indicates the driver "did not separate the certified mail. spoke to Ian and informed him of the situation." The date indicated is "12/15/06" and the time indicated is "0:40". It does not appear that the courier delivered the Express Mailing to the USPS employee to receive a date-stamp or "date-in" of "12/14/06".

Counsel Richard Eskew also submitted a declaration, in which he explains that the postage meter stamp was applied to this Express Mailing on 14 December 2006 at 7:06 pm. A copy of metering was provided. Affixing the proper postage from a company postage meter to an Express Mail envelope on 14 December 2006 is not sufficient evidence to conclude that the Express Mailing was actually deposited with the USPS on 14 December 2006 prior to midnight.

The evidence of record at this time is insufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 14 December 2006. The international filing date remains 15 December 2006.

CONCLUSION

Applicant's request that international filing date of 14 December 2006 be accorded application PCT/US06/47943 is **DISMISSED without prejudice**. The international filing date remains 15 December 2006.

Any reconsideration on the merits of the petition under 37 CFR §1.10©) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10©)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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16 AUG 2007

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In re Application of NELSON C. DONES	:	DECISION ON
PCT No.: PCT/US06/47943	:	
Int. Filing: 15 December 2006	:	PETITION
Priority Date: 14 December 2005	:	
Attorney Docket No.: OOO829/0004	:	UNDER 37 CFR 1.10(d)
For: APPARATUS FOR A BASKETBALL NET FOR DISPLAY-ING ADVERTISEMENT....	:	

This decision is in response to applicant's "Renewed Petition Requesting Correction of Filing Date under 37 CFR 1.10(d)", filed in the United States Patent and Trademark Office (USPTO) on 22 May 2007, to accord a filing date of 14 December 2006 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/47943 with the United States Receiving Office, claiming a priority date of 14 December 2005. The application was deposited with the United States Postal Service (USPS) using the Express Mail service and was accorded an international filing date of 15 December 2006.

On 10 January 2007, applicants filed a request, including, *inter alia*, a copy of the Customer Receipt of the "Express Mail" mailing label and declaration of James Hines.

On 30 March 2007, a decision dismissing the petition was mailed indicating that applicant had not met the requirements of 37 CFR 1.10(d).

On 22 May 2007, a renewed petition was filed along with the declarations of Luther Hoffmann and Kalilou Drame.

DISCUSSION

As previously stated, where applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable.

37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was

received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has satisfied Items (1) and (2).

In support of his renewed petition under 37 CFR 1.10(d)(3), Counsel relies on the declarations of Luther Hoffmann and Kalilou Drame, as well as the previously filed petition and supporting papers, filed on 10 January 2007. It is noted that a statement by the involved USPS employee was not provided to explain why the Express Mail package received a "Date-In" of 15 December 2006 and was not accorded a 14 December 2006 "Date-In".

Mr. Hoffmann is an employee of Stroock & Stroock & Lavan LLP as an account operations manager. He states that Stroock utilizes the services of Urban Express to transport deliveries to United States Postal Service (USPS). Mr. Hoffmann specifically , in paragraph 9, states that "the dated paid postage stamp which was copied just before handing over the packages to Urban Express Courier #9906 is attached". Reliance on the metered postage paid stamp is insufficient evidence to conclude that the Express Mail package was *deposited* with the USPS on 14 December 2006. The postage paid stamp is applied by the law firm by meter. It is not a necessary consequence that the Express Mail package was actually deposited with the USPS on 14 December 2006. Because it was applied by the law firm, it is only evidence that the postage was applied on 14 December 2006. Affixing the proper postage from a company postage meter to an Express Mail envelope on 14 December 2006 is not sufficient evidence to conclude that the Express Mailing was actually deposited with the USPS on 14 December 2006 prior to midnight.

Counsel also provided the statement of Kalilou Drame. Mr. Drame is an employee and courier for Urban Express. He states that in the course of his employment, he "pick[s] up parcels from the mailroom of Stroock & Stroock & Lavan LLP ("Stroock") and deliver[s] the parcels to third parties, including but not limited to the United States Postal Service ("USPS")". Mr. Drame states that he operates and identifies himself as Courier #9906. Mr. Drame states that on the evening of 14 December 2006, he was responsible for collecting and delivering Stroock's USPS mail. He further states that he

logged his deliveries on the Urban Express Delivery Manifest attached to his declaration.

The entry (#16), found on the second page of the Delivery Manifest, identifies the law firm and its address, the pick-up time, the post office address and delivery time. However, the manifest does not identify the Express Mail package number at issue. The entry contains a reference number assigned by the courier service, the place and the time of pickup and deposit. However, the Manifest does not contain the critical information: the "Express Mail" number; the application number, attorney docket number or other such file identification number; and the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log. The manifest does not tie this specific Express Mail package to this delivery so that it can be concluded that the Express mail package at issue was delivered to the Post Office before midnight on 14 December 2006. In fact, the manifest does not specifically identify which items were picked up and delivered to the USPS on 14 December 2006.

The evidence of record at this time is insufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 14 December 2006. The international filing date remains 15 December 2006.

CONCLUSION

Applicant's request that international filing date of 14 December 2006 be accorded application PCT/US06/47943 is **DISMISSED without prejudice**. The international filing date remains 15 December 2006.

Any reconsideration on the merits of the petition under 37 CFR §1.10©) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10©)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of NELSON C. DONES	:	DECISION ON
PCT No.: PCT/US06/47943	:	
Int. Filing: 15 December 2006	:	RENEWED PETITION
Priority Date: 14 December 2005	:	
Attorney Docket No.: OOO829/0004	:	UNDER 37 CFR 1.10(d)
For: APPARATUS FOR A BASKETBALL NET FOR DISPLAY-ING ADVERTISEMENT....	:	

This decision is in response to applicant's "Renewed Petition Requesting Correction of Filing Date under 37 CFR 1.10(d)", filed in the United States Patent and Trademark Office (USPTO) on 16 October 2007, to accord a filing date of 14 December 2006 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US06/47943 with the United States Receiving Office, claiming a priority date of 14 December 2005. The application was deposited with the United States Postal Service (USPS) using the Express Mail service and was accorded an international filing date of 15 December 2006.

On 10 January 2007, applicants filed a request, including, *inter alia*, a copy of the Customer Receipt of the "Express Mail" mailing label and declaration of James Hines.

On 30 March 2007, a decision dismissing the petition was mailed indicating that applicant had not met the requirements of 37 CFR 1.10(d).

On 22 May 2007, a renewed petition was filed along with the declarations of Luther Hoffmann and Kalilou Drame. On 16 August 2007, a decision was mailed dismissing the renewed petition.

On 16 October 2007, applicant filed a renewed petition[1].

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[1] 37 CFR 1.10(d) provides as follows:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

DISCUSSION

In support of his renewed petition under 37 CFR 1.10(d)(3), Counsel relies on the previously filed petitions and supporting papers. Counsel, in effect, argues that from the totality of the evidence, it can be concluded that the application at issue was deposited with the USPS on 14 December 2006.

The decision mailed on 16 August 2007 indicated that a statement by the involved USPS employee was not provided to explain why the Express Mail package, allegedly delivered on 14 December 2006, received a "Date-In" of 15 December 2006 and was not accorded a 14 December 2006 "Date-In". Such statement by the USPS has not been provided.

Nowhere among the petitions filed has applicant shown that this specific Express Mail package was among the packages picked up by Urban Express and delivered to the USPS on 14 December 2006.

The previously provided statement of Kalilou Drame, an employee and courier for Urban Express, indicates that he operates and identifies himself as Courier #9906. Mr. Drame indicated that on the evening of 14 December 2006, he was responsible for collecting and delivering Stroock's USPS mail and that he logged his deliveries on the Urban Express Delivery Manifest attached to his declaration.

However, the documents provided are deficient. The Delivery Manifest at entry (#16), found on the second page, identifies the law firm and its address, the pick-up time, the post office address and delivery time. However, as noted in the MPEP §513, the manifest does not (1) identify the Express Mail package number at issue. In fact, the Express Mail number does not appear on any of the documents provided.

Nor do the documents indicate the time of the last scheduled pick-up for that date; the depositor's initials or signature; and the date and time of entry in the log. This information is not found on any of the documents. None of the documents tie this specific Express Mail package to this delivery so that it can be concluded that the Express mail package at issue was delivered to the Post Office before midnight on 14 December 2006. In fact, none of the documents specifically identify which items were picked up and delivered to the USPS on 14 December 2006.

The evidence of record at this time is insufficient to establish with reasonable

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date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has satisfied Items (1) and (2) Only Item (3) remains to be satisfied.

filing date remains 15 December 2006.

CONCLUSION

Applicant's renewed request that international filing date of 14 December 2006 be accorded application PCT/US06/47943 is **DISMISSED without prejudice**. The international filing date remains 15 December 2006.

Any reconsideration on the merits of the petition under 37 CFR §1.10©) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10©)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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2 2 OCT 2008

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In re Application of CINGULAR WIRELESS II, LLC	:	
PCT Application No.: PCT/US2006/048198	:	
Int. Filing Date: 19 December 2006	:	DECISION
Priority Date Claimed: 19 December 2005	:	
Attorney Docket No.: CING-108-PCT	:	
For: APPLICATION ADAPTIVE MOBILE TERMINAL	:	

This is in response to applicant's "Inclusion of Drawing with International Application" filed 09 May 2007 and "Petition to Include Drawings with International Application" filed 12 June 2008, which are being treated together under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 19 December 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 09 April 2007, the RO/US mailed, *inter alia*, a Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107).

On 09 May 2007, applicant filed a petition under 37 CFR 1.181.

On 20 June 2007, the RO/US mailed a Notification Concerning Later Submitted Sheets or Drawings (Form PCT/RO/126).

On 12 June 2008, applicant filed a petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that six drawing sheets were originally filed on 19 December 2006. Specifically, the copy of the return postcard, which

includes the six drawing sheets in its itemized contents and which bears a USPTO date stamp of 19 December 2006, serves as *prima facie* evidence that six drawing sheets were received by the USPTO on 19 December 2006. Accordingly, Figures 8 and 9 will be accorded an original receipt date of 19 December 2006.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107) is hereby VACATED.

The Notification Concerning Later Submitted Sheets or Drawings (Form PCT/RO/126) is hereby VACATED.

The application will be forwarded to the RO/US for processing in accordance with this decision, including forwarding a copy of this decision to the International Bureau (IB) and requesting the IB to republish the international application including Figures 8 and 9.

Bryan Lin

Bryan Lin
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UNITED STATES PATENT AND TRADEMARK OFFICE

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22 MAY 2007

Clarence T. Tegreene
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In re Application of:	:	
SEARETTE, LLC	:	DECISION
PCT No. : PCT/US06/048214	:	
Int. Filing Date: 18 December 2006	:	UNDER
Priority Date: 20 December 2005	:	
Atty Docket No.: 05052601AWO1	:	
For: DELETABLE NANOTUBE CIRCUIT	:	37 CFR 1.181

This decision is in response to applicant's "RESPONSE TO NOTIFICATION CONCERING PAYMENT OF PRESCRIBED FEES AND PAYMENT OF LATE FEE" filed 01 May 2007, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 18 December 2006, applicant filed international application PCT/US06/048214, which claimed priorities of three earlier applications filed 20 December 2005.

On 08 February 2007, applicant was mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) informing applicant the fee payment and amount payable, in compliance with PCT Rules 14, 15 and 16.

On 16 March 2007, applicant submitted a RESPONSE TO NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES requesting a discount of $78 for the submission of the international application in paper form with the PCT-EASY file on a CD. Applicant submitted the payment of $1668.

On 29 March 2007, applicant was mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) inviting applicant to pay the unpaid fee in addition to the late payment fee.

On 01 May 2007, applicant filed the present petition to request the review of the fees by the PCT Legal Administration.

DISCUSSION

Applicant is entitled to a $78 discount on the international filing fees if applicant (1) submits the application with PCT-EASY file on diskette, CD-R or DVD-R or (2) filed electronically without PCT-EASY zip file.

A review of the papers reveals that the applicant submitted the international application in paper form and provided a copy of the PCT-EASY file on a CD. The $78 discount should have been applied toward the prescribed fees. Applicant paid a fee of $1668 on 16 March 2007 for the transmittal fee, the search fee, the international filing fee including the discount and the certified copies of the U.S. priority documents. Therefore, the invitation mailed on 29 March 2007 concerning the unpaid fee was issued in error.

CONCLUSION

Applicant's petition requesting the correction of the prescribed fees is **GRANTED**.

The INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) is hereby **VACATED**.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

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

11 SEP 2007

SHARON M. FUJITA
MAXYGEN, INC. - PATENT DEPARTMENT
515 GALVESTON DRIVE
REDWOOD CITY CA CALIFORNIA 94063

In re Application of	:	
MAXYGEN, INC.	:	
PCT No.: PCT/US06/48807	:	DECISION ON PETITION
Int. Filing Date: 20 December 2006	:	
Priority Date: 21 December 2005	:	UNDER 37 CFR 1.10 (c)
Atty. Docket No.: 0343.310WO	:	
For: DUAL AGONIST COMPOUNDS AND USES THEREOF	:	

This decision is in response to applicant's "Request For Corrected Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 31 August 2007. The petition is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 21 December 2005.

The United States Receiving Office (US/RO) accorded the application an international filing date of 21 December 2006. (See "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) mailed on 14 March 2007.

On 31 August 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 20 December 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 21 December 2006.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed on 28 August 2006 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision, that is, for preparing and mailing of a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 20 December 2006.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

29 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter R. Munson
Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

In re Application of	:	
VERUS PHARMACEUTICALS, Inc.	:	
PCT No.: PCT/US06/48927	:	DECISION ON PETITION
Int. Filing Date: 19 December 2006	:	
Priority Date: 20 December 2005	:	UNDER 37 CFR 1.10
Atty. Docket No.: 31622-720.602	:	
For: SYSTEMS AND METHODS FOR THE DELIVERY OF CORTICOSTEROIDS	:	

This decision is in response to applicant's "PETITION FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 23 March 2007. The petition is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to earlier United States applications filed 20 December 2005.

The United States Receiving Office (US/RO) accorded the application an international filing date of 20 December 2006. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 15 March 2007.

On 23 March 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 19 December 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 20 December 2006.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm database shows acceptance by the USPS on "December 19, 2006, 11:45 pm, San Francisco, CA 94128." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 15 March 2007 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 19 December 2006 and corrected first page of the PCT request form are enclosed with this decision.

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

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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SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA GA 30309-3592

COPY MAILED

FEB 21 2006

OFFICE OF PETITIONS

In re Application of
Anderson et al.
Application No. 60/752,607
Filed: December 20, 2005
Attorney Docket Number: 040965.018P
Title of Invention: Dry Erase Paint

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on January 17, 2006, requesting that the above-identified application be accorded a filing date of December 20, 2005 rather than the presently accorded date of December 21, 2005.

Petitioner contends the application was deposited in Express Mail service on December 20, 2005. In support, petitioner supplied a copy of Express Mail receipt No. EV251257377US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The Express Mail Label shows a date-in of December 20, 2005. A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on December 20, 2005.

In view of the above, the petition is **Granted**. No petition fee is required and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **December 20, 2005** and issuance of a corrected Filing Receipt.

This matter will be referred to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SGR-IP
DOCKETED
2/23/06 eb

RECEIVED
FEB 23 2006
SMITH GAMBRELL & RUSSELL LLP

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
60/752,607	12/20/2005		125	040965.018P			

CONFIRMATION NO. 4252

UPDATED FILING RECEIPT

OC000000018640746

25461
SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

Date Mailed: 04/28/2006

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. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. 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 mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. 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 (if appropriate).**

Applicant(s)

Andy W. Anderson SR., Douglasville, GA;
Michael B. Winchester, Canton, GA;

Power of Attorney:
Dale Lischer–28438

If Required, Foreign Filing License Granted: 01/03/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US60/752,607

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

Non-Publication Request: Not applicable

Early-Publication Request: Not applicable

**** SMALL ENTITY ****

Title

Dry erase paint

RECEIVED
MAY 2 2006
SMITH GAMBRELL & RUSSELL LLP

SGR-IP
DOCKETED
5-2-06bw

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 Assets Control, 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).

0 2 JUL 2008

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FARIBORZ MOAZZAM
MOAZZAM & ASSOCIATES, LLC
7601 LEWINSVILLE ROAD, SUITE 304
MCLEAN VA VIRGINIA 22102

In re Application of	:	
COLORADO CATHETER Co.	:	
PCT No.: PCT/US06/49604	:	
Int. Filing Date: 29 December 2006	:	DECISION
Priority Date: 06 January 2006	:	
Docket No.: CCC-103-PCT	:	
For: URINARY CATHETERIZATION KIT	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 361.

BACKGROUND

On 29 December 2006, applicant filed, *inter alia*, a transmittal letter, a request and description, claims and drawings. The papers were assigned application no. PCT/US06/49604. However, the papers were also scanned into application PCT/US06/49640.

On 01 August 2007, the Office mailed Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) and a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) for the above application.

On 05 September 2007, a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) and a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) were mailed for application no. PCT/US06/49640.

DISCUSSION

This application is properly PCT/US2006/049604. Papers indicating it was accorded a different application number issued in error and are hereby vacated. Any further correspondence with regard to the above captioned application should be directed to PCT/US2006/049604.

CONCLUSION

The Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) mailed 05 September 2007 is **VACATED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 05 September 2007 is **VACATED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The filing is being returned to PCT Operations for further processing consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

02 JUL 2008

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Alexandria, VA 22313-1450
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J. Albert Riddle
BAKER HUGHES, INC.
2929 Allen Parkway, Suite 2100
Houston, TX 77019-2118

In re Application of	:	
BAKER HUGHES, INC.	:	DECISION ON
PCT No.: PCT/US06/49640	:	
Int. Filing Date: 29 December 2006	:	PETITION
Priority Date: 29 December 2005	:	
Docket No.: 584-41454-WO	:	UNDER 37 CFR 1.181
For: TWO-AXIAL PAD FORMATION RESISTIVITY IMAGER	:	

This is a decision on applicant's petitions filed in the United States Patent and Trademark Office on 17 April 2008 and 24 April 2008. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 29 December 2006, applicant filed, *inter alia*, a transmittal, a request and drawings. The papers were assigned application no. PCT/US06/49640. However, the papers for another application also filed on 29 December 2006 were also scanned into the same application number.

On 05 September 2007, a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) and a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) were mailed in this application for the papers inadvertently scanned into this application number.

On 17 April 2008 and 24 April 2008, applicant filed this petition under 37 CFR 1.181, a copy of a post card receipt and a copy of the papers applicant claims were submitted to USPTO on 29 December 2006.

DISCUSSION

Applicant's originally filed transmittal letter, request form, description, claims and drawings are present in the file. The papers will be processed and forwarded to the International Bureau.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) mailed 05 September 2007 is **VACATED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 05 September 2007 is **VACATED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The filing is being returned to PCT Operations for further processing consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

06 APR 2007

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

NEWMAN & NEWMAN, ATTORNEYS AT LAW, LLP
505 FIFTH AVENUE SOUTH
SUITE 610
SEATTLE WA 98104

In re Application of :
CARTMELL, Brian R. :
PCT No.: PCT/US06/49682 : DECISION ON PETITION
Receipt Date: 15 December 2006 : UNDER 37 CFR 1.182
Priority Date: 23 December 2005 :
Attorney Docket No.: 1111-0026 PCT :
For: CENTRALIZED IDENTITY :
VERIFICATION AND/OR PASSWORD
VALIDATION

This decision is issued in response to applicant's "Petition to Reclassify a Utility Filing as a PCT Filing" filed 08 February 2007. This request is being treated as a petition under 37 CFR 1.182 to process the above identified application as an international application in accordance with the Patent Cooperation Treaty. The $400 petition fee will be charged to Deposit Account no. 50-3122.

BACKGROUND

On 15 December 2006, applicant submitted (via EFS-Web): a PCT application which included: 5 page Request (PCT/RO/101); 12 pages of descriptions; 2 pages of claims; 1 page abstract; 9 pages of drawings; a fee calculation sheet, a general power of attorney; and a Declaration of Inventorship under PCT Rule 4.17(iv). Practitioner did not select the radio button for 'international application for filing in the US Receiving Office' and the application papers were treated as a new application under 35 U.S.C. 111. These papers were assigned application number 11/611,762.

On 08 February 2007, applicant filed the present "Petition to Reclassify a Utility Filing as a PCT Filing." Applicant requests to convert U.S. patent application no. 11/611,762 filed 15 December 2006 to an international application with a filing date of 15 December 2006. The submission was assigned PCT/US06/49682.

DISCUSSION

Upon review of the application files, it is concluded that the papers filed 15 December 2006 were incorrectly processed as a purported new application and assigned application no. 11/611,762 due to practitioner's failure to select 'international application for filing in the US Receiving Office' radio button. Practitioner states in the present

petition that "I filed (on 15 December 2006) papers through private PAIR. . .The filing was meant to be a PCT application. . .but without selecting the radio button for 'International Application for filing in the US Receiving Office' on the first page of the submission process." The papers filed on 15 December 2006 have been placed in application number PCT/US06/49682 and will be accorded an international filing date of 15 December 2006. Purported application 11/611,762 is no longer an active application number and should not be used in any future correspondence regarding this application.

Applicant's request that the 5 page Request (PCT/RO/101), 12 pages of descriptions, 2 pages of claims, 1 page abstract, 9 pages of drawings, a fee calculation sheet, a general power of attorney, and a Declaration of Inventorship under PCT Rule 4.17(iv) filed 15 December 2006 be converted to a PCT application and accorded an international filing date of 15 December 2006 is granted.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED** and the international application will be accorded an international filing date of 15 December 2006.

The application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) according the application papers an international filing date of **15 December 2006**; and (2) forwarding notice of the 15 December 2006 international filing date to the International Bureau.

Applicant should use international application number PCT/US06/49682 in all future communications with the United States Patent and Trademark Office.

Anthony Smith

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

cc: WIPO
34, chemin des Colombettes
Geneva, 20 1211, Switzerland

PCT/US2006/049682

06 APR 2007

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NEWMAN & NEWMAN, ATTORNEYS AT LAW, LLP
505 FIFTH AVENUE SOUTH
SUITE 610
SEATTLE WA 98104

In re Application of :
CARTMELL, Brian R. :
PCT No.: PCT/US06/49682 : DECISION ON PETITION
Receipt Date: 15 December 2006 : UNDER 37 CFR 1.182
Priority Date: 23 December 2005 :
Attorney Docket No.: 1111-0026 PCT :
For: CENTRALIZED IDENTITY :
VERIFICATION AND/OR PASSWORD
VALIDATION

This decision is issued in response to applicant's "Petition to Reclassify a Utility Filing as a PCT Filing" filed 08 February 2007. This request is being treated as a petition under 37 CFR 1.182 to process the above identified application as an international application in accordance with the Patent Cooperation Treaty. The $400 petition fee will be charged to Deposit Account no. 50-3122.

BACKGROUND

On 15 December 2006, applicant submitted (via EFS-Web): a PCT application which included: 5 page Request (PCT/RO/101); 12 pages of descriptions; 2 pages of claims; 1 page abstract; 9 pages of drawings; a fee calculation sheet, a general power of attorney; and a Declaration of Inventorship under PCT Rule 4.17(iv). Practitioner did not select the radio button for 'international application for filing in the US Receiving Office' and the application papers were treated as a new application under 35 U.S.C. 111. These papers were assigned application number 11/611,762.

On 08 February 2007, applicant filed the present "Petition to Reclassify a Utility Filing as a PCT Filing." Applicant requests to convert U.S. patent application no. 11/611,762 filed 15 December 2006 to an international application with a filing date of 15 December 2006. The submission was assigned PCT/US06/49682.

DISCUSSION

Upon review of the application files, it is concluded that the papers filed 15 December 2006 were incorrectly processed as a purported new application and assigned application no. 11/611,762 due to practitioner's failure to select 'international application for filing in the US Receiving Office' radio button. Practitioner states in the present

Copied from PCT/US06/49682 on 12/08/2008

petition that "I filed (on 15 December 2006) papers through private PAIR. . .The filing was meant to be a PCT application. . .but without selecting the radio button for 'International Application for filing in the US Receiving Office' on the first page of the submission process." The papers filed on 15 December 2006 have been placed in application number PCT/US06/49682 and will be accorded an international filing date of 15 December 2006. Purported application 11/611,762 is no longer an active application number and should not be used in any future correspondence regarding this application.

Applicant's request that the 5 page Request (PCT/RO/101), 12 pages of descriptions, 2 pages of claims, 1 page abstract, 9 pages of drawings, a fee calculation sheet, a general power of attorney, and a Declaration of Inventorship under PCT Rule 4.17(iv) filed 15 December 2006 be converted to a PCT application and accorded an international filing date of 15 December 2006 is granted.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED** and the international application will be accorded an international filing date of 15 December 2006.

The application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) according the application papers an international filing date of **15 December 2006**; and (2) forwarding notice of the 15 December 2006 international filing date to the International Bureau.

Applicant should use international application number PCT/US06/49682 in all future communications with the United States Patent and Trademark Office.

Anthony Smith

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Copied from PCT/US06/49682 on 12/08/2008

15 DEC 2006

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 BECKER
LATTICE SEMICONDUCTOR CORPORATION
5555 NE MOORE CT.
HILLSBORO, OR 97124

In re Application of	:	
LATTICE SEMICONDUCTOR CORPORATION	:	
PCT Application No.: PCT/US2006/060011	:	
Int. Filing Date: 16 October 2006	:	
Priority Date Claimed: 17 October 2005	:	DECISION
Attorney Docket No.: 31325	:	
For: CLOCK RESET ADDRESS DECODER FOR BLOCK MEMORY	:	

This is in response to applicant's correspondence filed 23 October 2006, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 October 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

DISCUSSION

The petition states that a second application number, PCT/US2006/060009, has been assigned to the present case and requests that application number PCT/US2006/060009 be deleted from USPTO records. The petition states that the generation of two application numbers for the same case may have been the result of a system error in the EFS-Web filing system of the USPTO. However, a review of Office records reveals no evidence of any error that may have caused the generation of two application numbers for the same case. Accordingly, application numbers PCT/US2006/060009 and PCT/US2006/060011 remain active. Applicant is entitled to formally request the withdrawal of an international application under the provisions of PCT Rule 90*bis*.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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11 SEP 2007

Laura K. Madden
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King of Prussia, PA 19406-0939

In re Application of :
SMITHKLINE BEECHAM CORPORATION :
PCT No.: PCT/US06/60099 :
International Filing Date: 20 October 2006 :
Priority Date: 25 October 2005 : DECISION ON PETITION
Attorney's Docket No.: PU61651 :
For: CHEMICAL COMPOUNDS :

This decision is issued in response to applicant's "Request for Correct Filing Date" filed 20 August 2007 to accord an international filing date of 20 October 2006 to the above-identified international application. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 23 October 2006 to the above-identified international application.

On 18 July 2007, the United Receiving Office mailed the following: Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102)and Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105). The documents listed the international filing date as 23 Oct 2006.

On 20 August 2007, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 20 October 2006.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 20 October 2006. With respect to an electronic filing, the Acknowledgment Receipt establishes the date of receipt in the USPTO of the electronic documents itemized in the receipt, and is thus the equivalent of a return postcard in the paper process. Under EFS-Web, the Acknowledgment Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the

count of pages and/or byte sizes for each document. Thus, the Acknowledgment Receipt is the electronic equivalent of the postcard receipt described in MPEP 503. (See http://www.uspto.gov/ebc/portal/efs/legal.htm)

Here, applicant submitted a copy of the Acknowledgment Receipt generated with respect to the original application filing, and such Acknowledgment Receipt confirms the receipt in the USPTO on 20 October 2006 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 20 October 2006 confirms that such materials satisfy the requirements of PCT Article 11(1) for accordance of an international filing date. Accordingly, the correct international filing date for the present application is 20 October 2006, as requested by applicant in the present petition.

CONCLUSION

The petition under 37 CFR 1.181 requesting that the application papers be accorded an international filing date under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 20 October 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 20 October 2006; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
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UNITED STATES PATENT AND TRADEMARK OFFICE

18 JUL 2008

Commissioner for Patents
United States Patent and Trademark Office
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Chicago, IL 60606

In re Application of: NIELSEN MEDIA RESEARCH, INC.
PCT Application No.: PCT/US2006/060115
International Filing Date: 20 October 2006
Priority Date: 21 October 2005
Attorney Docket No.: 20004/320WO
For: METHODS AND APPARATUS FOR METERING PORTABLE MEDIA PLAYERS

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is responsive to the communication filed 20 June 2007, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 20 October 2006, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified international application number and international filing date. The submission included Fee Calculation Sheet (Form PCT/ISA/101 (Annex)) which indicated the Mode of Payment as Other: EFT (electronic fund transfer); and, indicated authorization to charge any deficiency or credit any overpayment to Deposit Account No. 50-2455.

On 02 March 2007, Deposit Account 50-2455 was charged $300.00 (transmittal fee) and $924.00 (international filing fee).

On 07 March 2007, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102), which indicated a balance of $1,828.00.

On 08 March 2007, the United States International Searching Authority (ISA/US) mailed a Notification of Receipt of Search Copy (Form PCT/ISA/202).

On 17 April 2007, Deposit Account 50-2455 was credited $924.00 (international filing fee); and charged $60.00 (priority document), $684.00 (international filing fee), $1,008.00 (international filing fee), and $1,000.00 (search fee).

On 20 June 2007, applicant filed the present petition and request for refund, which asserts that the present application was an unintended application and a duplicate of PCT/US2006/060118.

On 09 July 2007, Deposit Account 50-2455 was credited $684.00 (international filing fee), $60.00 (priority document), $1,008.00 (international filing fee), $1,000.00 (search fee), and $300.00 (transmittal fee).

On 13 July 2007, the RO/US mailed a Communication (Form PCT/RO/132), regarding the 20 June 2007 petition (which communication was later vacated).

On 28 February 2008, the ISA/US mailed, *inter alia*, the International Search Report (Form PCT/ISA/210) and Written Opinion of the International Searching Authority (Form PCT/ISA/237).

On 13 March 2008, the RO/US mailed a Communication (Form PCT/RO/132), which vacated the 13 July 2007 Communication. On the same day, Deposit Account 50-2455 was charged $1,008.00 (international filing fee), $60.00 (priority document), $684.00 (international filing fee), $1,000.00 (search fee), and $300.00 (transmittal fee).

On 19 March 2008, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102).

DISCUSSION

A petition under 37 CFR 1.181 that requests refund for an unintended or duplicate application filed via EFS-Web must be filed within three months of the first application receiving an acknowledgement by the Office, must include a statement by a registered practitioner or a person having first-hand knowledge that any duplicate application was intended to be the original, must be signed by a registered practitioner or other party in interest, must list the other application(s) of which the subject application is deemed a duplicate, and petitioner must certify that any later-filed applications were submitted prior to receiving confirmation of receipt of the first-filed application. In addition, the duplicate application must be withdrawn.

The present petition includes a statement by a registered practitioner that another application (PCT/US2006/060118) was intended to be the original application.

The petition is signed by a registered practitioner.

The petition lists the other application (PCT/US2006/060118) of which this application is asserted to be a duplicate.

The petitioner asserts that PCT/US2006/060118 was submitted prior to receiving confirmation of receipt of this application, insofar as petitioner has referred to

PCT/US2006/060115 as the "second" inadvertent application and PCT/US2006/060118 as the first application.

The acknowledgement receipt for this application is time stamped 20 October 2006 at 17:28:46 and the acknowledgement for PCT/US2006/060118 is time stamped 20 October 2006 at 17:40:55. The present petition was filed 20 June 2007, not within three months of the filing date of the first application receiving an acknowledgement by the Office.

In addition, the present application has not been withdrawn. Pursuant to PCT Rule 90*bis*.5, a notice of withdrawal must be signed by all applicants. Powers of attorney appointing James A. Flight, have not been provided by applicants Robert Stokes, Brian Scott Mello, Seth Alan Pelletier, and Perry Joseph Fisch.

CONCLUSION

The petition under 37 CFR 1.181 is DISMISSED.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Tamara Graysay
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Boris Milef
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UNITED STATES PATENT AND TRADEMARK OFFICE

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DENVER CO COLORADO 80202

In re Application of	:	
THE REGENTS OF THE UNIV. OF COLORADO	:	
PCT No.: PCT/US06/60297	:	DECISION ON PETITION
Int. Filing Date: 27 October 2006	:	
Priority Date: 27 October 2006	:	UNDER 37 CFR 1.181
Atty. Docket No.: 076775-012000/PCT	:	
For: A POLYMER FORMULATION, A METHOD OF DETERMINING A POLYMER FORMULATION, AND A METHOD...FABRICATION	:	

This decision is in response to applicant's correspondence filed in the United States Patent and Trademark Office (USPTO) on 30 October 2008. The papers are being treated as a petition under 37 CFR 1.181.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The United States Receiving Office (US/RO) accorded the application an international filing date of 26 October 2006. (See Form PCT/RO/105) mailed 09 February 2007.

On 30 October 2008, applicant filed the present petition urging that applicant had electronically filed the international application on 27 October 2006 but that the USPTO incorrectly entered an international filing date of 26 October 2006.

DISCUSSION

The present international application was filed electronically in the USPTO on 27 October 2006. With respect to an electronic filing, the Acknowledgment Receipt establishes the date of receipt in the USPTO of the electronic documents itemized in the receipt, and is thus the equivalent of a return postcard in the paper process. Under EFS-Web, the Acknowledgment Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the count of pages and/or byte sizes for each document. Thus, the Acknowledgment Receipt is the electronic equivalent of the postcard receipt described in MPEP 503. (See http://www.uspto.gov/ebc/ portal/efs/legal.htm) Applicant has presently provided a copy of the receipt indicating a receipt date of 27 October 2006.

Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/RO/105 mailed 09 February 2007 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision including the mailing of a new "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 27 October 2006.

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CC: International Bureau of WIPO
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Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES R. SWEENEY, II
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN STREET
INDIANAPOLIS IN INDIANA 46204

In re Application of:
AMERIFAB, INC.
PCT No: PCT/US2006/060461
International Filing Date: 01 November 2006
Priority Date: 01 November 2005
Atty Docket No.: 37506-200936
For: HEAT EXCHANGE APPARATUS AND METHOD OF USE

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Request To Correct Filing Date Of The International Application" filed 27 August 2007, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

Applicant initiated the present international application by electronically filing a Request (Form PCT/RO/101) and accompanying materials.

On 29 June 2007, the United States Receiving Office (RO/US) mailed applicant a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) identifying the international filing date as 02 November 2006.

On 27 August 2007, applicant filed the present petition. The petition states that the proper international filing date is 01 November 2006, the date on which the application was electronically filed in the USPTO.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 01 November 2006. With respect to an electronic filing, the Acknowledgement Receipt establishes the date of receipt in the USPTO of the electronic documents itemized in the receipt, and is thus the equivalent of a return postcard in the paper process. Under EFS-Web, the Acknowledgement Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the count of pages and/or byte sizes for each document. Thus, the Acknowledgement Receipt is the electronic equivalent of the postcard receipt described in MPEP 503.

Here, the petition was accompanied by a copy of the Acknowledgement Receipt generated with respect to the original application filing, and such Acknowledgement Receipt confirms the receipt of the application materials in the USPTO on 01 November 2006. A review of the materials filed 01 November 2006 confirms that such materials satisfy the requirements of PCT Article 11(1) for accordance of an international filing date. Accordingly, the correct international filing date for the present application is 01 November 2006, as requested by applicant in the present petition.

CONCLUSION

Applicant's petition is **GRANTED**.

The international filing date is corrected to **01 November 2006**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 29 June 2007, which identified 02 November 2006 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" which identifies the international filing date as **01 November 2006** is issued herewith.

Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

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cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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24 AUG 2007

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In re Application of :
CENTERTRAK, LLC :
PCT No.: PCT/US06/60662 :
International Filing Date: 08 November 2006 :
Priority Date: 15 November 2005 : DECISION ON PETITION
Attorney's Docket No.: 006697.00004 :
For: SYSTEM AND METHOD FOR THE DIGITAL SPECIFICATION OF HEAD SHAPE DATA FOR USE IN DEVELOPING CUSTOM HAIR PIECES :

This decision is issued in response to applicant's "Petition under 37 CFR 1.182" filed 10 August 2007 to accord an international filing date of 08 November 2006 to the above-identified international application. Applicant's petition is being treated under 37 CFR 1.181. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 28 November 2006 to the above-identified international application.

On 12 July 2007, the United Receiving Office mailed the following: Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105); Invitation to Correct Defects in the International Application (Form PCT/RO/106); and Invitation to Correct Priority Claim (Form PCT/RO/110). All documents listed the international filing date as 28 NOV 2006.

On 10 August 2007, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 08 November 2006.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 08 November 2006. With respect to an electronic filing, the Acknowledgement Receipt establishes the date of receipt in the USPTO of the electronic

documents itemized in the receipt, and is thus the equivalent of a return postcard in the paper process. Under EFS-Web, the Acknowledgement Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the count of pages and/or byte sizes for each document. Thus, the Acknowledgement Receipt is the electronic equivalent of the postcard receipt described in MPEP 503. (See http://www.uspto.gov/ebc/ portal/efs/legal.htm)

Here, applicant submitted a copy of the Acknowledgement Receipt generated with respect to the original application filing, and such Acknowledgement Receipt confirms the receipt in the USPTO on 08 November 2006 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 08 November 2006 confirms that such materials satisfy the requirements of PCT Article 11(1) for accordance of an international filing date. Accordingly, the correct international filing date for the present application is 08 November 2006, as requested by applicant in the present petition.

CONCLUSION

The petition under 37 CFR 1.181 requesting that the application papers be accorded an international filing date under 37 CFR 1.181 is **GRANTED**.

The Invitation to Correct Priority Claim (form PCT/RO/110) mailed 12 July 2007 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 08 November 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 08 November 2006; and (3) forwarding a copy of this decision to the International Bureau.

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cc: International Bureau of WIPO
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0 8 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Application of:
UNIVERSITY OF DELAWARE TECHNOLOGY CORPORATION
PCT Application No.: PCT/US2006/060882
Filing Date: 14 November 2006
Priority Date: 14 November 2005
Attorney's Docket No.: 11657-00054-WO1
For: NOVEL HYDROGELS AND USES THEREOF

DECISION ON PETITION

This decision is issued in response to applicant's "Petition for Reconsideration" filed 17 March 2008. Applicant requests that the United States Patent and Trademark Office in its capacity as International Searching Authority vacate the "Declaration of Non-Establishment of International Search Report" issued on 06 December 2007.

Applicant states in the present petition that a paper copy and computer readable copy of the sequence listing was submitted on 14 November 2006 with the initial filing and in response to the Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements mailed 28 December 2008. Both paper copy and computer readable copy of the sequence listing were received by the United States Patent and Trademark Office. However, the sequence listings submitted on 14 November 2006 and 29 January 2008 were not in compliance with Annex C of the Administrative Instruction under the Patent Cooperation Treaty. (See Box III Supplemental Box of the Written Opinion of the International Searching Authority (Form PCT/ISA/237) mailed 06 December 2007.) Therefore, the issuance of the "Declaration of Non-Establishment of International Search Report" issued 06 December 2006 was proper.

The petition is **DISMISSED** without prejudice.

A copy of the Written Opinion of the International Searching Authority (Form PCT/ISA/237) mailed 06 December 2007 which includes the Supplemental Box is attached for applicant's convenience.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Enclosure: Written Opinion of the International Searching Authority (Form PCT/ISA/237) mailed 06 December 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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24 JAN 2008

James M. Heslin
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In re Application of:
CVRX, INC.
PCT Application No.: PCT/US2006/061256
Int. Filing Date: 27 November 2006
Priority Date: 29 December 2005
Atty Docket No.: 21433-19PC
For: ELECTRODE STRUCTURES HAVING ANTI-INFLAMMATORY PROPERTIES AND METHODS OF USE

DECISION ON PETITION

This is in response to applicant's request received on 09 August 2007 to accord an international filing date of 27 November 2006 to the above international application. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 November 2006, applicant filed international application papers with the United States Office (RO/US) via the EFS-web electronic filing system of the USPTO. The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 30 November 2006.

On 18 July 2007, the United States Receiving Office mailed, inter alia, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 09 August 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Electronic Acknowledgment Receipt confirms the receipt in the USPTO on 27 November 2006 of the international application papers. Accordingly, the correct international filing date for the present application is 27 November 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification of the International Application number and of the International Filing Date (Form PCT/RO/105) is hereby **VACATED**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Shian Luong
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Office of PCT Legal Administration
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Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT:

Corrected Notification of the International Application Number And Of The International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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06 DEC 2007

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204

In re Application of	:	DECISION ON
SIGNACERT, INC. et al	:	
PCT No.: PCT/US06/061811	:	
Int. Filing Date 8 December 2006	:	PETITION UNDER
Priority Date: 9 December 2005	:	
Attorney's Docket No.: 8404-017	:	
For: METHOD TO VERIFY... DATABASE SERVICES	:	37 CFR 1.181

This decision is in response to "PETITION TO CORRECT FILING DATE" filed on 07 November 2007, which is being treated as a petition under 37 CFR 1.181, requesting that the above international application was filed on 8 December 2006.

BACKGROUND

On 08 December 2006, this international application was allegedly filed in the United States Receiving Office (RO/US), claiming an earliest priority date of 09 December 2005.

On 31 July 007, the United States Receiving Office (RO/US) mailed applicant a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) stating that the international filing date is 19 December 2006.

On 07 November 2007, petitioner filed the present petition. The petition states that based on the electronic Acknowledgement Receipt, the filing date of this international application is 8 December 2006.

DISCUSSION

The electronic Acknowledgement Receipt indicates that on 08 December 2006 the above international application was received, which included the following items.

(1) Request (5 pages)
(2) Specification (27 pages)
(3) Claims (7 pages)
(4) Abstract (1 page)
(5) Drawings (16 pages)

Accordingly, the date of receipt for the above international application is 08 December 2006.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** and the date of receipt of the above international application at the USPTO is **08 December 2006**. Form PCT/RO/105 mailed on 31 July 2007 is hereby **VACATED**.

This application is being forwarded to the RO/US section of the Office of PCT Operations for preparation and mailing of a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the present application an international filing date of **08 December 2006**.

Rafael Bacares
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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
SABEUS, INC.	:	
PCT No.: PCT/US06/61813	:	DECISION UNDER
Int. Filing Date: 08 December 2006	:	37 CFR 1.181
Priority Date: 09 December 2005	:	
Agent's File Reference: STADM-75815	:	
For: RUGGED FIBER OPTIC TOWED ARRAY	:	

Applicants' 15 July 2008 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 11 December 2006 to 08 December 2006. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 08 December 2006, applicants filed international application PCT/US06/61813 via EFS-Web, which claimed priority to a U.S. application filed 09 December 2005. However, the United States Receiving Office (RO/US) stamped the PCT Request with an 11 December 2006 international filing date.

On 01 June 2007, The RO/US mailed, inter alia, a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating an 11 December 2006 international filing date.

On 15 July 2008, applicants filed the present petition informing the RO/US that the 11 December 2006 international filing date as indicated on the Form PCT/RO/105 mailed 01 June 2007 is incorrect and should be changed to 08 December 2006.

DISCUSSION

A review of the Electronic Acknowledgement Receipt reveals that international application PCT/US06/61813 was filed in the USPTO on 08 December 2006. Therefore, the 11 December 2006 international filing date as indicated on the Form PCT/RO/105 mailed 01 June 2007 is incorrect. The correct international filing date for the present international application is 08 December 2006.

CONCLUSION

Applicants' 15 July 2008 petition to correct the international filing date from 11 December 2006 to 08 December 2006 is hereby **GRANTED.** The Form PCT/RO/105 mailed 01 June 2007 is **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 indicating an 08 December 2006 international filing date are being sent to the International Bureau.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

Telephone (571) 272-3284
Facsimile (571) 273-0459

JSF/RC:jf

Enclosures: copy of corrected Form PCT /RO/105.

UNITED STATES PATENT AND TRADEMARK OFFICE

02 JUL 2008

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

Anita Varma
Ropes & Gray LLP
One International Place
Boston, MA 02110-2624

In re Application of:
CYDEX, INC. et al.
PCT Application No.: PCT/US2006/062346
Int. Filing Date: 19 December 2006
Priority Date: 30 June 2006
Atty Docket No.: ASZD-115-WO2
For: INHALANT FORMULATION CONTAINING SULFOALKYL ETHER CYCLODEXTRIN AND CORTICOSTEROID

DECISION ON PETITION

This is in response to applicants' "PETITION TO CORRECT INTERNATIONAL FILING DATE" received on 10 July 2007 to accord an international filing date of 19 December 2006 to the above international application. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 December 2006, applicant filed international application papers with the United States Office (RO/US) via the EFS-web electronic filing system of the USPTO. The submission was assigned the above-identified International Application Number and was accorded a receipt date of 19 December 2006.

On 02 July 2007, the United States Receiving Office mailed, inter alia, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) and Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) with the international filing date of 20 December 2006.

On 10 July 2007, applicant filed the present petition.

DISCUSSION

The Electronic Acknowledgment Receipt confirms the receipt in the USPTO on 19 December 2006 of the international application papers. Accordingly, the correct international filing date for the present application is 19 December 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification of the International Application number and of the International Filing Date (Form PCT/RO/105) mailed on 02 July 2007 is hereby **VACATED**.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 19 December 2006 will be mailed with this decision.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT:

Corrected Notification of the International Application Number And Of The International Filing Date (Form PCT/RO/105).

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

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

01 OCT 2007

FRANK NGUYEN
INTUITIVE SURGICAL, INC.
1266 KIFER ROAD BLDG. 101
SUNNYVALE CA CALIFORNIA 94086

In re Application of
INTUITIVE SUGICAL, INC.
PCT No.: PCT/US06/62363
Int. Filing Date: 20 December 2006
Priority Date: 20 December 2005
Atty. Docket No.: ISRGOO350
For: STERILE SURGICAL ADAPTOR

: DECISION ON PETITION
:
:under 37 CFR 1.181

This is a decision on applicant's "Petition Under 37 CFR 1.181 and Response to Invitation to Correct Priority Claim" filed in the United States Patent and Trademark Office (USPTO) on 09 August 2007. Applicant, in effect, requests that the USPTO accord a filing date of 20 December 2006 to the above-identified application papers. No petition fee is required.

On 20 December 2006, applicant filed international application No. PCT/US06/62363 with the United States Receiving Office (RO/US) via the USPTO EFS-Web System, which claimed a priority date of 20 December 2005. The submission was assigned the above identified International application number and was accorded an International Filing Date of 27 December 2006.

On 31 July 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) to applicant indicating that the International filing date of the application is 27 December 2006. An Invitation to Correct Priority Claim (Form PCT/RO/110) was also mailed, inviting applicant to correct the priority claim.

On 09 August 2007, applicant filed the present petition under 37 CFR 1.181, which included a copy of the electronic acknowledgment receipt from the USPTO . A review of the EFS-Web Electronic Acknowledgment Receipt reveals that the international application papers were filed on 20 December 2006.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of **20 December 2006** is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) and Invitation to Correct Priority Claim (Form PCT/RO/110) mailed on 31 July 2007 are hereby **VACATED**. A corrected Notification of the International

Application Number and of the International Filing Date will be mailed indicating an international filing date of 20 December 2006.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

INTUITIVE SURGICAL®

RECEIVED

9 AUG 2007

Fax

Legal Staff
International Division

To:	PCT LEGAL OFFICE	**From:**	Barbara deRuyter
Fax:	**571 273-0459**	**Pages:**	12 including cover sheet
Phone:	571 272-4300	**Date:**	9 August 2007
Re:	PCT/US06/62363	**CC:**	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

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INTUITIVE SURGICAL, INC.
950 Kifer Road,
Sunnyvale, CA 94086, USA

Phone: 408.523.2100
Fax 408.523.1390

RECEIVED PCT/US2006/062363 01.10.2007

9 AUG 2007

Legal Staff
International Division

PATENT
Attorney Docket ISRG00350

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PCT

In re Application of: Intuitive Surgical, Inc.

Entitled: STERILE SURGICAL ADAPTER

International Application No.: PCT/US06/62363

International Filing Date: 20 December 2006 - **erroneously recorded in the US/RO as 27 December 2006**

PETITION UNDER 37 CFR 1.181 AND RESPONSE TO INVITATION TO CORRECT PRIORITY CLAIM

Commissioner of Patents
PCT LEGAL OFFICE
Facsimile No. 571 273-0459

Sir or Madam:

In response to the Invitation to Correct Priority Claim mailed on July 31, 2007, Applicant states the following:

1. The above cited PCT application was filed electronically with the US/RO on **December 20, 2006**. A copy of the Electronic Acknowledgement Receipt is enclosed.

2. Applicant received an Invitation to Correct Priority Claim showing an incorrect **International Filing Date of December 27 2006.** A copy of the Invitation is enclosed for your reference.

3. The earliest **Priority Date** for the said Application is **December 20, 2005**. Because the US/RO has entered an incorrect Filing Date on the Application, it erroneously appears that the Application was not filed within one (1) year of the earliest priority date. A copy of the Request as filed is enclosed for your reference.

Therefore, under 37 CFR 1.181, Applicant requests that the Receiving Office rectify the International

Filing Date to December 20, 2006 and rescind the Invitation to Correct Priority Claim.

Thank you for your help in this matter.

Respectfully submitted,

Frank Nguyen
Reg. No. 39790
Attorney for the Applicant

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS FACSMILE TRANSMITTED TO THE DIRECTOR, PCT LEGAL OFFICE, at 571-273-0459 ON THE DATE SHOWN BELOW.

August 9, 2007 BY _____
Barbara deRuyter

Electronic Acknowledgement Receipt	
EFS ID:	1606525
Application Number:	
International Application Number:	PCT/US06/62363
Confirmation Number:	7619
Title of Invention:	STERILE SURGICAL ADAPTOR
First Named Inventor/Applicant Name:	INTUITIVE SURGICAL, INC.
Customer Number:	51947
Correspondence Address:	Frank Nguyen Intuitive Surgical, Inc. 1266 Kifer Road Bldg. 101 Sunnyvale CA 94086 US 408 523-2129 -
Filer:	Frank Nguyen/Anne Killingsworth
Filer Authorized By:	Frank Nguyen
Attorney Docket Number:	ISRG00350
Receipt Date:	20-MAR-2007
Filing Date:	20-DEC-2006
Time Stamp:	11:54:12
Application Type:	International Application for filing in the US receiving office

Payment information:

Submitted with Payment	yes

Payment was successfully received in RAM	$ 3778
RAM confirmation Number	1946
Deposit Account	503404
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (If appl.)
1	Fee Worksheet (PTO-06)	fee-info.pdf	8649	no	2
Warnings:					
Information:					
		Total Files Size (In bytes):	8649		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
FRANK NGUYEN
INTUITIVE SURGICAL, INC.
1266 KIFER ROAD BLDG. 101
SUNNYVALE, CALIFORNIA 94086

PCT

INVITATION TO CORRECT PRIORITY CLAIM

(PCT Rules 4.10, 26*bis*.1, 26*bis*.2(a) and (b))

	Date of mailing *(day/month/year)* 31 Jul 2007
Applicant's or agent's file reference ISRG00350	**REPLY DUE** See item 1
International application No. PCT/US2006/062363	International filing date *(day/month/year)* 27 Dec 2006
Applicant INTUITIVE SUGICAL, INC.	

The applicant is hereby invited, within the time limit indicated below, to correct, by a notice submitted to this receiving Office, defects in the priority claim(s), as indicated in the Annex.

1. **Time limit to respond to this Invitation (Rule 26*bis*.1(a)):**

   – within 16 months from the (earliest) priority date; or

   – if the (earliest) priority date is changed as a result of the correction or addition of the (earliest) priority claim, within 16 months from that (earliest) priority date so changed,

   whichever expires first, provided that such a notice may, in any event, be submitted until the expiration of four months from the international filing date.

   Failure to respond to this invitation within the prescribed time limit may result in the priority claim concerned to be considered, for the purposes of the procedure under the PCT, not to have been made (Rule 26*bis*.2(b)).

2. In the case where **multiple priorities** have been claimed, this invitation relates to the following priority claim(s):

3. A copy of this Invitation is being sent to the International Bureau.

Name and mailing address of the receiving Office Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 Facsimile No. 571-273-3201	Authorized officer Eric Simms Telephone No. 703-308-9290 EX 120

Form PCT/RO/110 (July 1998; reprint January 2004)

ANNEX TO FORM PCT/RO/110

International application No.
PCT/US2006/062363

This receiving Office has found the following defects in the priority claim(s):

1. **Failure to Comply with the Requirements of Rule 4.10**

a. ☒ **National application**

- ☐ Missing indication of the filing date of the earlier application.
- ☒ Filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.
- ☐ Missing indication of the number of the earlier application.*
- ☐ Missing indication of the country party to the Paris Convention for the Protection of Industrial Property, or of the Member of the World Trade Organization that is not party to that Convention, in which the earlier national application was filed.
- ☐ The country indicated is neither a party to the Paris Convention for the Protection of Industrial Property nor a Member of the World Trade Organization.

b. ☐ **Regional application**

- ☐ Missing indication of the filing date of the earlier application.
- ☐ Filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.
- ☐ Missing indication of the number of the earlier application.*
- ☐ Missing indication of the authority entrusted with the granting of regional patents under the applicable regional patent treaty.
- ☐ The authority indicated as the authority entrusted with the granting of regional patents does not grant regional patents.
- ☐ The priority claim in relation to the ARIPO application does not indicate either at least one country party to the Paris Convention for the Protection of Industrial Property, or at least one Member of the World Trade Organization, for which the earlier application was filed.

c. ☐ **International application**

- ☐ Missing indication of the filing date of the earlier application.
- ☐ Filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.
- ☐ Missing indication of the number of the earlier application.*
- ☐ Missing indication of the receiving Office with which it was filed.

2. **Inconsistency with the Corresponding Indications in the Priority Document***

a. ☐ Inconsistency with regard to the filing date of the earlier application:

The request indicates:

The priority document indicates:

b. ☐ Inconsistency with regard to the number of the earlier application:

The request indicates:

The priority document indicates:

c. ☐ Inconsistency with regard to the country party to the Paris Convention for the Protection of Industrial Property or the Member of the World Trade Organization in which the national application was filed:

The request indicates:

The priority document indicates:

d. ☐ Inconsistency with regard to the authority entrusted with the granting of *regional patents* under the applicable regional patent treaty:

The request indicates:

The priority document indicates:

e. ☐ Inconsistency with regard to the receiving Office with which the international application was filed:

The request indicates:

The priority document indicates:

* Even if this defect is not corrected in response to this Invitation, the priority claim concerned will not be considered not to have been made (Rule 26*bis*.2(b)).

ISRG00350

PCT REQUEST

Original (for SUBMISSION)

0	**For receiving Office use only**	
0-1	International Application No.	
0-2	International Filing Date	
0-3	Name of receiving Office and "PCT International Application"	
0-4	**Form PCT/RO/101 PCT Request**	
0-4-1	Prepared Using	PCT-SAFE [EASY mode] Version 3.51.015.190 MT/FOP 20061001/0.20.5.7
0-5	**Petition** The undersigned requests that the present International application be processed according to the Patent Cooperation Treaty	
0-6	**Receiving Office (specified by the applicant)**	United States Patent and Trademark Office (USPTO) (RO/US)
0-7	**Applicant's or agent's file reference**	ISRG00350
I	**Title of Invention**	STERILE SURGICAL ADAPTOR
II	**Applicant**	
II-1	This person is	applicant only
II-2	Applicant for	all designated States except US
II-4	Name	INTUITIVE SUGICAL, INC.
II-5	Address	1266 KIFER ROAD BLDG 101 SUNNYVALE, California 94086 United States of America
II-6	State of nationality	US
II-7	State of residence	US
II-8	Telephone No.	408-523-2129
II-9	Facsimile No.	408 523-1390
II-11	Applicant's registration No. with the Office	51947
III-1	**Applicant and/or inventor**	
III-1-1	This person is	inventor only
III-1-4	Name (LAST, First)	ORBAN, Joseph
III-1-5	Address	42 WINFIELD STREET Norwalk, Connecticut 06855 United States of America

ISRG00350

PCT REQUEST

Original (for SUBMISSION)

III-2	**Applicant and/or Inventor**	
III-2-1	This person is	inventor only
III-2-4	Name (LAST, First)	ANDERSON, S. Christopher
III-2-5	Address	85 SOUTH STREET NORTHAMPTON, Massachusetts 01060 United States of America
III-3	**Applicant and/or Inventor**	
III-3-1	This person is	inventor only
III-3-4	Name (LAST, First)	DEVENGENZO, Roman
III-3-5	Address	1180 REED AVENUE #70 SUNNYVALE, California 94086 United States of America
III-4	**Applicant and/or Inventor**	
III-4-1	This person is	inventor only
III-4-4	Name (LAST, First)	SCHENA, Bruce
III-4-5	Address	414 POPE STREET MENLO PARK, California 94025 United States of America
III-5	**Applicant and/or Inventor**	
III-5-1	This person is	inventor only
III-5-4	Name (LAST, First)	PRINDIVILLE, Michael
III-5-5	Address	750 SAN BENITO AVENUE MENLO PARK, California 94025 United States of America
III-6	**Applicant and/or Inventor**	
III-6-1	This person is	inventor only
III-6-4	Name (LAST, First)	COOPER, Thomas
III-6-5	Address	304 CONCORD DRIVE MENLO PARK, California 94025 United States of America
III-7	**Applicant and/or Inventor**	
III-7-1	This person is	inventor only
III-7-4	Name (LAST, First)	BURBANK, William
III-7-5	Address	2 OLD GREEN ROAD SANDY HOOK, Connecticut 06482 United States of America

ISRG00350

PCT REQUEST

Original (for SUBMISSION)

IV-1	**Agent or common representative; or address for correspondence**	
	The person identified below is hereby/ has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:	agent
IV-1-1	Name (LAST, First)	NGUYEN, Frank
IV-1-2	Address	Intuitive Surgical, Inc. 1266 Kifer Road Bldg. 101 Sunnyvale, California 94086 United States of America
IV-1-3	Telephone No.	408 523-2129
IV-1-4	Facsimile No.	408 523-1390
IV-1-6	Agent's registration No.	39790
IV-2	**Additional agent(s)**	agent
IV-2-1	Name (LAST, First)	ALLENBY, Christopher B.
IV-2-2	Address	Intuitive Surgical, Inc. 1266 Kifer Road Bldg. 101 Sunnyvale, California 94086 United States of America
IV-2-3	Telephone No.	408 523-2460
IV-2-4	Facsimile No.	408 523-1390
IV-2-5	e-mail	
IV-2-6	Agent's registration No.	45906
V	**DESIGNATIONS**	
V-1	**The filing of this request constitutes under Rule 4.9(a), the designation of all Contracting States bound by the PCT on the international filing date, for the grant of every kind of protection available and, where applicable, for the grant of both regional and national patents.**	
VI-1	**Priority claim of earlier national application**	
VI-1-1	Filing date	20 December 2005 (20.12.2005)
VI-1-2	Number	11/314,040
VI-1-3	Country	US
VI-2	**Priority document request**	
	The receiving Office is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):	VI-1
VII-1	**International Searching Authority Chosen**	United States Patent and Trademark Office (USPTO) (ISA/US)

ISRG00350

PCT REQUEST

Original (for **SUBMISSION**)

VIII	Declarations	Number of declarations	
VIII-1	Declaration as to the identity of the inventor	-	
VIII-2	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	-	
VIII-3	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	-	
VIII-4	Declaration of inventorship (only for the purposes of the designation of the United States of America)	-	
VIII-5	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	-	
IX	**Check list**	number of sheets	electronic file(s) attached
IX-1	Request (including declaration sheets)	5	✓
IX-2	Description	31	-
IX-3	Claims	4	-
IX-4	Abstract	1	✓
IX-5	Drawings	28	-
IX-7	TOTAL	69	
	Accompanying Items	paper document(s) attached	electronic file(s) attached
IX-8	Fee calculation sheet	✓	-
IX-11	Copy of general power of attorney	✓	-
IX-17	PCT-SAFE physical media	-	✓
IX-19	**Figure of the drawings which should accompany the abstract**		
IX-20	**Language of filing of the international application**	English	
X-1	**Signature of applicant, agent or common representative**		
X-1-1	Name (LAST, First)	NGUYEN, Frank	
X-1-2	Name of signatory		
X-1-3	Capacity		

ISRG00350

5/5

PCT REQUEST

Original (for **SUBMISSION**)

FOR RECEIVING OFFICE USE ONLY

10-1	Date of actual receipt of the purported international application	
10-2	Drawings:	
10-2-1	Received	
10-2-2	Not received	
10-3	Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application	
10-4	Date of timely receipt of the required corrections under PCT Article 11(2)	
10-5	International Searching Authority	ISA/US
10-6	Transmittal of search copy delayed until search fee is paid	

FOR INTERNATIONAL BUREAU USE ONLY

11-1	Date of receipt of the record copy by the International Bureau	

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	8601
RECIPIENT ADDRESS	4085232351
DESTINATION ID	
ST. TIME	08/09 17:36
TIME USE	01'16
PGS.	12
RESULT	OK

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

14 AUG 2007

FRANK NGUYEN
INTUITIVE SURGICAL, INC.
1266 KIFER ROAD BLDG. 101
SUNNYVALE CA CALIFORNIA 94086

In re Application of:
INTUITIVE SURGICAL, INC.
PCT No: PCT/US2006/062364
International Filing Date: 20 December 2006
Priority Date: 20 December 2005
Atty Docket No.: ISRG00361
For: STERILE SURGICAL ADAPTOR

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Petition Under 37 CFR 1.181 And Response To Invitation To Correct Priority Claim" filed 09 August 2007. No petition fee is required.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 27 December 2006 to the above-identified international application.

On 31 July 2007, the RO/US mailed applicant, among other materials: a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) identifying the international filing date as 27 December 2006; and an "Invitation to Correct Priority Claim" (Form PCT/RO/110).

On 09 August 2007, applicant filed the present petition. The petition asserts that the materials initiating this international application were filed electronically on 20 December 2006 and that the proper international filing date is therefore 20 December 2006.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 20 December 2006. With respect to an electronic filing, the Acknowledgement Receipt establishes the date of receipt in the USPTO of the electronic documents itemized in the receipt, and is thus the equivalent of a return postcard in the paper process. Under EFS-Web, the Acknowledgement Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the count of pages and/or byte sizes for each document. Thus, the Acknowledgement Receipt is the electronic equivalent of the postcard receipt described in MPEP 503.

Here, the petition was accompanied by an Acknowledgement Receipt, but such Acknowledgement Receipt pertains to applicant's submission of fees on 20 March 2007, not the filing of the original application materials in December 2006. This receipt therefore does not provide support for the requested correction in the international filing date.

However, the electronic application file contains a copy of the Acknowledgement Receipt generated with respect to the original application filing, and such Acknowledgement Receipt confirms the receipt in the USPTO on 20 December 2006 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 20 December 2006 confirms that such materials satisfy the requirements of PCT Article 11(1) for accordance of an international filing date. Accordingly, the correct international filing date for the present application is 20 December 2006, as requested by applicant in the present petition.

CONCLUSION

Applicant's petition is **GRANTED**.

The international filing date is corrected to **20 December 2006**.

The "Invitation To Correct Priority Claim" mailed 31 July 2007, based as it was on the purported failure of the 20 December 2006 priority claim to fall within twelve months of the priority date, is hereby **VACATED**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 31 July 2007, which identified 27 December 2006 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" which identifies the international filing date as **20 December 2006** is issued herewith.

Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau of WIPO

United States Patent and Trademark Office

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

0 1 OCT 2007

FRANK NGUYEN
INTUITIVE SURGICAL, INC.
1266 KIFER ROAD BLDG. 101
SUNNYVALE, CA 94086

In re Application of :
Intuitive Surgical, Inc. :
Int. Application No. PCT/US06/62366 :
Int. Filing Date: 20 December 2006 :
Priority Date: 22 December 2005 : DECISION
Atty. Docket No.: ISRG00322 :
For: Synchronous Data Communication :

This is with regard to the petition under 37 CFR 1.181 filed on 09 August 2007.

BACKGROUND

This international application was electronically filed on 20 December 2006, and claimed an earliest priority date of 22 December 2005.

On 31 July 2007, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) reflecting an international filing date of "27 Dec 2006" was mailed to applicants. This was accompanied by an Invitation To Correct Priority Claim (Form PCT/RO/110) stating that the "filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date."

DISCUSSION

Applicant "requests that the Receiving Office rectify the International Filing Date to December 20, 2006 and rescind the Invitation to Correct Priority Claim." Review of the Electronic Acknowledgement Receipt related to the filing of this international application reveals that the international filing date in fact was 20 December 2006 as urged by petitioner. Therefore, the Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) **and** the Invitation To Correct Priority Claim (Form PCT/RO/110) mailed on 31 July 2007 are hereby **VACATED**.

DECISION

The petition is **GRANTED**.

A corrected Form PCT/RO/105 showing the correct international filing date of **20 December 2006** is attached hereto.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

enc: Form PCT/RO/105

cc: International Bureau of WIPO

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

11 SEP 2007

FRANK NGUYEN
INTUITIVE SURGICAL, INC.
1266 KIFER ROAD BLDG. 101
SUNNYVALE CA CALIFORNIA 94086

In re Application of :
INTUITIVE SURGICAL, INC. :
PCT No.: PCT/US06/62367 :
International Filing Date: 20 December 2006 :
Priority Date: 22 December 2005 : DECISION ON PETITION
Attorney's Docket No.: ISRG00323 :
For: MULTI PRIORITY MESSAGING :

This decision is issued in response to applicant's "Petition under 37 CFR 1.181 And Response to Invitation to Correct Priority Claim" filed 16 August 2007 to accord an international filing date of 20 December 2006 to the above-identified international application. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 27 December 2006 to the above-identified international application.

On 31 July 2007, the United Receiving Office mailed the following: Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) and Invitation to Correct Priority Claim (Form PCT/RO/110). Both documents listed the international filing date as "27 Dec 2006."

On 16 August 2007, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 20 December 2006.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 20 December 2006. With respect to an electronic filing, the Acknowledgment Receipt establishes the date of receipt in the USPTO of the electronic documents itemized in the receipt, and is thus the equivalent of a return postcard in the paper process. Under EFS-Web, the Acknowledgment Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the count of pages and/or byte sizes for each document. Thus, the Acknowledgment Receipt is the electronic equivalent of the postcard receipt described in MPEP 503. (See http://www.uspto.gov/ebc/ portal/efs/legal.htm)

Here, applicant submitted a copy of the Acknowledgment Receipt generated with respect to the original application filing, and such Acknowledgment Receipt confirms the receipt in the USPTO on 20 December 2006 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 20 December 2006 confirms that such materials satisfy the requirements of PCT Article 11(1) for accordance of an international filing date. Accordingly, the correct international filing date for the present application is 20 December 2006, as requested by applicant in the present petition.

CONCLUSION

The petition under 37 CFR 1.181 requesting that the application papers be accorded an international filing date under 37 CFR 1.181 is GRANTED.

The Invitation to Correct Priority Claim (form PCT/RO/110) mailed 31 July 2007 is hereby VACATED.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 20 December 2006; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 20 December 2006; and (3) forwarding a copy of this decision to the International Bureau.

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CC: International Bureau of WIPO
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Switzerland

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17 SEP 2007

E. INK CORPORATION
733 CONCORD AVENUE
CAMBRIDGE MA 02138-1002

In re Application of	:	DECISION ON
E INK CORPORATION	:	
PCT No.: PCT/US2006/062399	:	PETITION
Receipt Date: 20 December 2006	:	
Priority Date Claimed: 20 December 2005	:	
Attorney's Docket No.: H-456PCT	:	
For: ELECTRO-OPTIC DISPLAY	:	
WITH EDGE SEAL	:	

This decision is in response to applicant's submission filed on 08 August 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 20 December 2006, applicant filed international application papers. These papers were assigned application number PCT/US2006/62399.

On 17 July 2007, the United States Receiving Office (RO/US) mailed an INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION (Form PCT/RO/103) indicating that the application does not fulfill the requirements under PCT Article 11(1) for the according of an international filing date because it does not contain a part which on the face of it appears to be a description and does not contain a part which on the face of it appears to be a claim or claims. The INVITATION also indicated that the international filing date will be the date on which the corrections are received, if that date falls within the time limit of one month from the date of mailing of the INVITATION and that if the corrections are not received within that time limit, the application will not be treated as an international application.

On 08 August 2007, applicant filed the instant submission which has properly been treated as a petition under 37 CFR 1.181. The petition was accompanied by a description, claims, abstract, and drawings. The petition requests that the international application be accorded an international filing date later than 20 December 2006 but earlier than 05 July 2007.

DISCUSSION

The application papers filed 20 December 2006 were filed electronically. Applicant received an "Electronic Acknowledgement Receipt" on 20 December 2006 at 15:55:11 (copy enclosed) for one page of fees, seven pages of a Request (PCT/RO/101), one page of a Transmittal Letter, three pages of a corporate resolution/authority to act on behalf of corporation, and two pages of a fee worksheet.

The Receipt states "[t]his Acknowlegement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503."

A review of the application file shows no description, claims, abstract, or drawings as having been filed on 20 December 2006. The Acknowledgement Receipt for 20 December 2006 does not itemize any of the description, claims, abstract, or drawings. As noted in MPEP § 513:

> [w]here 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.

No such evidence has been provided. Indeed, the Acknowledgement Receipts suggest that a description, claims, abstract, and drawings were not filed on 20 December 2006.

Applicant urges that the Request contains a request to use the results of an earlier search for US application number 11/612,732 filed 19 December 2006 and therefore applicant should be permitted to substitute the specification, claims, drawings, and abstract of the US application for the missing papers of the instant application. Copies of these papers accompany the petition. Applicant requests that these papers be accepted as having been originally filed in the RO/US sometime after 20 December 2006 but before 05 July 2007 (the publication date of the corresponding US application), preferably sometime on or around 20 March 2007 and that the application be accorded this deemed receipt date as an international filing date.

It is noted that there is no requirement that the international application and the US application for which applicant indicates the results of an earlier search should be used be the same application or claim the same invention. Moreover, PCT Article 11(1) requires that the specification and claims be received in the international application.

It is urged is that the delay in the time from when the application papers were first filed until the INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION was mailed is responsible for applicant's not filing the description, claims, abstract, and drawings before 05 July 2007 and that this delay was in violation of PCT Rule 20.6(b). The application papers were filed 20 December 2006. Unfortunately, no paper was mailed by the RO/US until the INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION was mailed on 17 July 2007. The delay is regretted. However, PCT Article 11 requires that the international application contain "a part which on the face of it appears to be a description" and "a part which on the face of it appears to be a claim or claims" in order for the receiving Office to accord the application papers an international filing

date. Thus, the RO/US cannot accord the instant international application an international filing date any earlier than 08 August 2007. Moreover, it is applicant's responsibility to check the Acknowledgement Receipt to make sure that the papers intended to be submitted to the RO/US were actually received. See MPEP § 503. ("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.") Both the Request and the Transmittal Letter list 33 pages of description, 6 pages of claims, 1 page of abstract, and 15 sheets of drawings. Apparently, applicant failed to check the Acknowledgement Receipt to make sure that these papers were actually received. Had applicant done so at any point before 05 July 2007, applicant would have been able to deposit the required papers and obtain the filing date requested.

The sheets containing a description and claims were received in the RO/US within one month from the date of mailing of the INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION. Accordingly, the international filing date of the instant application is 08 August 2007.

CONCLUSION

For the reasons set forth above, the renewed petition under 37 CFR 1.181 to accord an international filing date later than 20 December 2006 but earlier than 05 July 2007 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being referred to the RO/US for further processing in accordance with this decision, including the mailing of a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) confirming the international filing date as 08 August 2007.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

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Enclosure: Electronic Acknowledgement Receipt for PCT/US06/62399, 20 December 2006, 15:55:11

1 1 JAN 2008

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David N. Sloane
TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of	:	
PROFUSION ENERGY, INC.	:	
PCT No.: PCT/US06/62683	:	DECISION UNDER
Int. Filing Date: 28 December 2006	:	37 CFR 1.181
Priority Date: 29 December 2005	:	
Agent's File Reference: 26063-1-1PC	:	
For: ENERGY GENERATION APPARATUS AND METHOD	:	

Applicants' 26 September 2007 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 03 January 2007 to 28 December 2006. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 28 December 2006, applicants filed international application PCT/US06/62683 via EFS-WEB, which claimed priority to a U.S. application filed 29 December 2005.

Notwithstanding the above, on 11 September 2007, The United States Receiving Office (RO/US) mailed, inter alia, a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) and an "INVITATION TO CORRECT PRIORITY CLAIM" (Form PCT/RO/110) indicating an 03 January 2007 international filing date.

On 26 September 2007, applicants filed the present petition informing the RO/US that the 03 January 2007 international filing date as indicated on the Form PCT/RO/105 mailed 11 September 2007 is incorrect and should be changed to 28 December 2006.

DISCUSSION

A review of the Electronic Acknowledgement Receipt reveals that international application PCT/US06/62683 was filed in the USPTO on 28 December 2006. Therefore, the 03 January 2007 international filing date as indicated on the Forms PCT/RO/105 and PCT/RO/110 mailed 11 September 2007 is incorrect. The correct international filing date for the present international application is 28 December 2006.

CONCLUSION

Applicants' 26 September 2007 petition to correct the international filing date from 03 January 2007 to 28 December 2006 is hereby **GRANTED.** The Forms PCT/RO/105 and PCT/RO/110 mailed 11 September 2007 are **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 indicating a 28 December 2006 international filing date are being sent to the International Bureau. A review of the application file reveals that the PCT Request filed with the original application papers was stamped with 28 December 2006 as the international filing date.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

Telephone (571) 272-3284
Facsimile (571) 273-0459

JSF/BL:jf

Enclosure: copy of corrected Form PCT/RO/105.

28 SEP 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kenneth S. Roberts
ORRICK HERRINGTON & SUTCLIFFE LLP
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Irvine, CA 92614-2558

In re Application of: Centrality Communications, Inc. et al.
PCT Application No.: PCT/US2006/062732
International Filing Date: 29 December 2006
Priority Date: 29 December 2005
Attorney Docket No.: 15962.4001
For: UNASSISTED INDOOR GPS RECEIVER

DECISION

This decision is in response to the "REQUEST TO RESCIND EFS ID 1936281" filed 09 August 2007, which has been treated as a petition under 37 CFR 1.182 for correction under PCT Rule 9.1(iv). The required petition fee of $400.00 has been authorized and charged to Deposit Account No. 15-0665.

BACKGROUND

On 03 July 2007, an electronic communication was filed through the Electronic Filing System (EFS), including an attached document file named 15962-4001poa.pdf. The electronic communication was assigned EFS ID 1936281.

On 09 August 2007, a petition was filed requesting that the electronic communication associated with EFS ID 1936281 be rescinded because the document was submitted in error.

DISCUSSION

The international application, in accordance with PCT Rule 9.1(iv), shall not contain any statement or other matter obviously irrelevant or unnecessary under the circumstances.

Upon review of document file 15962-4001poa.pdf, attached to the above-mentioned electronic communication, the United States Receiving Office (RO/US) accepts petitioner's contention that the document file was submitted due to an error insofar as the document file was obviously irrelevant under the circumstances.

The document file 15962-4001poa.pdf and associated Electronic Acknowledgement Receipt will be retained in the RO/US file.

CONCLUSION

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1420, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Tamara Graysay
PCT Special Program Examiner
Office of PCT Legal Administration
(571) 272-6728

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

09/28/2007 SBASHEIR 00000002 150665 PCT/US06/62732
Sale Ref: 00000002 DA#: 150665 PCT/US06/62732
01 FC:1462 400.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM P. RAMEY, III
P.O. BOX 50784
DALLAS TX TEXAS 75201

19 JUL 2007

In re Application of	:	
ALCON MANUFACTURING, Ltd.	:	
PCT App. No.: PCT/US06/62750	:	DECISION ON
Int'l Filing Date: 29 December 2006	:	
Priority Date: 29 December 2005	:	PETITION
Attorney Docket No.: 3024 PCT	:	
For: RNAI-MEDIATED INHIBITION OF IGF1R FOR TREATMENT OF OCULAR ANGIOGENESIS	:	UNDER 37 CFR 1.182

This decision is in response to applicant's "Transmittal Letter," filed with the United States Patent and Trademark Office on 08 May 2007. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 23-2426, as authorized.

BACKGROUND

On 29 December 2006, applicant filed *inter alia* a request, a fee calculation sheet and a specification.

On 22 January 2007, the Office mailed Receipt of Search Copy (Form PCT/ISA/202), indicating that the search copy was received on 22 January 2007.

On 08 May 2007, applicant filed the instant petition to change the international searching authority.

DISCUSSION

As work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

The $400 fee for the petition will be charged to deposit account no. 23-2426, as authorized.

CONCLUSION

The petition under 37 CFR 1.182 to change the international searching authority is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to ISA/US for continued processing.

Erin P. Thomson

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WILLIAM P. RAMEY, III
P.O. BOX 50784
DALLAS TX TEXAS 75201

19 JUL 2007

In re Application of	:	
ALCON MANUFACTURING, Ltd.	:	
PCT App. No.: PCT/US06/62750	:	DECISION ON
Int'l Filing Date: 29 December 2006	:	
Priority Date: 29 December 2005	:	PETITION
Attorney Docket No.: 3024 PCT	:	
For: RNAI-MEDIATED INHIBITION OF IGF1R FOR TREATMENT OF OCULAR ANGIOGENESIS	:	UNDER 37 CFR 1.182 :

This decision is in response to applicant's "Transmittal Letter," filed with the United States Patent and Trademark Office on 08 May 2007. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 23-2426, as authorized.

BACKGROUND

On 29 December 2006, applicant filed *inter alia* a request, a fee calculation sheet and a specification.

On 22 January 2007, the Office mailed Receipt of Search Copy (Form PCT/ISA/202), indicating that the search copy was received on 22 January 2007.

On 08 May 2007, applicant filed the instant petition to change the international searching authority.

DISCUSSION

As work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

The $400 fee for the petition will be charged to deposit account no. 23-2426, as authorized.

CONCLUSION

The petition under 37 CFR 1.182 to change the international searching authority is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to ISA/US for continued processing.

Erin P. Thomson

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MONTEREY CA 93942

In re Application of	:	
MONSTER CABLE PRODUCTS, INC.	:	
PCT No.: PCT/US06/62761	:	
Int. Filing Date: 29 December 2006	:	DECISION
Priority Date: 29 December 2005	:	
Attorney's Docket No.: P1713	:	
For: A/V MEDIA DEISTRIBUTION IN A POWER CENTER	:	

This decision is in response to the "facsimile" filed on 17 March 2008. Applicant is requesting redo of the International Search Report and Written Opinion because one of the references cited in the Written Opinion is not listed in the Search Report.

BACKGROUND

On 29 December 2006, applicant filed the above international application with the United States Receiving Office (RO/US). In the section of the Request for selecting the International Searching Authority, applicants indicated the U.S. Patent Office (ISA/US) as the International Searching Authority.

On 13 February 2008, the RO/US issued a Notification of Transmittal of The International Search Report and The Written Opinion of The International Search Authority, or The Declaration" (Form PCT/ISA/220), International Search Report (PCT/ISA/210), and Written Opinion of The International Searching Authority (PCT/ISA/237). The Written Opinion cited a reference (Kram reference) in its analysis, which is not listed in the search report.

Accordingly, petitioner requests the RO/US issue a new International Search Report and Written Opinion because petitioner is unable to locate the Kram reference, and therefore cannot fully analyze the Written Opinion.

DISCUSSION

A review of the file reveals that the Kram reference cited in the Written Opinion was not listed in the International Search Report. As a result, the Search Report is incomplete and mailed in error.

Accordingly, the ISA mailed on 13 February 2008 was in error because it did not include the Kram reference, and will be vacated.

CONCLUSION

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

The Notification of Transmittal of The International Search Report and The Written Opinion of The International Search Authority, or The Declaration" (Form PCT/ISA/220), International Search Report (PCT/ISA/210), and Written Opinion of The International Searching Authority (PCT/ISA/237) mailed on 13 February 2008 is **VACATED.**

This application is being forwarded to the ISA/US section of the Office of PCT Operations for processing this application in accordance to this decision and to forward this application to Technology Center 3700 for issuance of a new International Search Report and Written Opinion.

Rafael Bacares
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Facsimile 831.649.8835

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PCT SPECIAL
PROGRAMS OFFICE

LaRiviere Grubman & Payne

FACSIMILE COVER SHEET

TO: Attn: Rafael Bacares
PCT Helpdesk

FAX: (571) 273-0419

DATE:

FROM: David Lee
LaRiviere, Grubman & Payne, LLP
19 Upper Ragsdale Dr., St. 200
Monterey, CA 93942

RE: International Application No. PCT/US06/62761, filed December 29, 2006
Our Ref: P1713WO

CONFIDENTIAL

To the PCT Helpdesk:

In the above-referenced International Application, we have received both an International Search Report and a Written Opinion of the International Searching Authority. However, one of the references cited in the Written Opinion is not listed in the Search Report (Kram reference). We are thus unable to locate this reference, and cannot fully analyze the Written Opinion. Relevant pages of the Search Report and Written Opinion are sent along with this letter.

The aforementioned issue has been discussed with Legal Examiner Rafael Bacares. Per our discussion, we hereby request a new Search Report and Written Opinion.

Yours truly,

LARIVIERE, GRUBMAN & PAYNE, LLP

David Lee
US Reg. No. 60,474

THIS TRANSMISSION TOTALS 4 PAGE(S) INCLUDING COVER SHEET

2 9 SEP 2009

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Darien K. WALLACE
Imperium Patent Works
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In re Application of	:	
NuCORE Technology Inc.	:	DECISION ON
PCT No.: PCT/US07/00293	:	
Int. Filing Date: 07 January 2007	:	PETITION UNDER
Attorney Docket No.: NCT-011-PCT	:	
For: Color Correction Involving Color Phase Detection and Phase-Dependent Control	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition for Revival of Application for a Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed 07 January 2007.

BACKGROUND

On 07 January 2007, applicant filed international application PCT/US2007/00293 claiming a priority date of 05 January 2006, together with a "Petition for Revival of Application for a Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and a $1500.00 petition fee.

DISCUSSION

Article 11(1) of the Patent Cooperation Treaty (PCT) provides the requirements for according of the international filing date by the receiving Office. No other Article or Regulation of the Treaty provides for a filing date to be accorded on a date earlier than the date that the conditions specified in Article 11 are met and the items enumerated therein are received by the receiving Office. The International Filing Date accorded by the US receiving Office (RO/US) for this international application was 07 January 2007.

The PCT incorporates the provisions of the Paris Convention for the Protection of Industrial Property. Article 4A(1) of the Paris Convention indicates in pertinent part that "[a]ny person who has duly filed an application for a patent...in one of the countries of the Union...shall enjoy, for the purpose of filing in other countries, a right of priority during the periods hereinafter fixed." Article 4C(1) indicates that "[t]he periods of priority referred to above shall be twelve months for patents..."

Item 4 of applicant's statement indicates that, "[t]he one-year deadline for filing an international application claiming priority to U.S. application 11/326,252 expired at midnight on Friday, January 5, 2007" and that "[i]f the attached petition to revive is granted, the accompanying international application will be deemed to have been timely filed." It is important to note that there is no "deadline" for the filing of an international application under the PCT. PCT/US07/00293 was accorded an international filing date of 07 January 2007. The application was never deemed abandoned under any provision of either the PCT or any US statute or regulation. Therefore, a petition to revive an application abandoned unintentionally under 37 CFR 1.137(b) in this circumstance is inappropriate.

PCT/US07/00293 has an international filing date which is later than the date on which the period of priority under the Paris Convention expired. On the international filing date of 07 January 2007, the PCT provided no mechanism to restore the right of priority. Applicant's claim to priority to US application 11/326,252 in this international application is improper under the terms of the Paris Convention, and is therefore, considered void.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** as inappropriate. The $1500.00 petition fee will be refunded.

The priority claim to US application 11/326,252 is considered **VOID**.

A corrected International Search Report and Written Opinion of the International Searching Authority, each indicating no claim to priority, have been issued.

A copy of this decision will be forwarded to the International Bureau.

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27 APR 2007

EDWARD A. SOKOLSKI
3868 CARSON STREET, SUITE 105
TORRANCE, CA 90503-6706

In re Application of	:	
ANCRA INTERNATIONAL, LLC	:	
PCT Application No.: PCT/US2007/000328	:	DECISION
Int. Filing Date: 09 January 2007	:	
Priority Date Claimed: 08 November 2006	:	
Attorney Docket No.: 5559	:	
For: LIMITED TENSION RATCHET BUCKLE FOR SECURING LOAD	:	

This is in response to applicant's request for refund under 37 CFR 1.446 filed 26 April 2007.

BACKGROUND

On 09 January 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 26 April 2007, applicant filed the present request for refund under 37 CFR 1.446.

DISCUSSION

37 CFR 1.445(a)(2)(i) states that applicant is entitled to a reduced international search fee provided that a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under § 1.16(a) has been filed and the corresponding prior United States National application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application.

In the present case, a prior U.S. nonprovisional application filed under 35 U.S.C. 111(a) was not identified in the international application or accompanying papers at the time of filing. Thus, applicant is not entitled to a full or partial refund of fees paid for the international search.

CONCLUSION

For the reasons above, the request for refund under 37 CFR 1.446 is DISMISSED without prejudice.

The application is being forwarded to Technology Center 3700 for preparation of the International Search Report and Written Opinion of the International Searching Authority.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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M. BUD NELSON
AFFINERGY, INC.
P.O. BOX 14650
RESEARCH TRIANGLE PARK, NC 27709-4650

In re Application of AFFINERGY, INC.
PCT Application No.: PCT/US2007/000518
Int. Filing Date: 09 January 2007
Priority Date Claimed: 11 January 2006
Attorney Docket No.: AF-010-C1-PCT
For: METHODS AND COMPOSITIONS FOR PROMOTING ATTACHMENT OF CELLS OF ENDOTHELIAL CELL LINEAGE TO MEDICAL DEVICES

DECISION

This is in response to applicant's "Petition for Refund" filed 06 March 2007.

BACKGROUND

On 09 January 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 06 March 2007, applicant filed the present request for refund.

DISCUSSION

37 CFR 1.446(a) states in relevant part,

> Money paid for international application fees, where paid by actual mistake or in excess, such as a payment not required by law or treaty and its regulations, may be refunded.

A review of the application file reveals that applicant has supplied or has been charged a total of $400.00 for preparation of certified copies of priority documents. Because the fees submitted and/or charged are in excess of the $40.00 required, applicant is entitled to a refund under 37 CFR 1.446(a). $360.00 will be refunded to Deposit Account 50-3850.

CONCLUSION

For the reasons above, the request for refund is GRANTED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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Thomas K. Sherer
OSHA LIANG LLP
1221 McKinney St., Suite 2800
Houston, TX 77010

In re Application of :
SUN MICROSYSTEMS, INC. :
PCT No.: PCT/US2007/000905 :
Int. Filing Date: 12 January 2007 : **DECISION**
Priority Date: 13 January 2006 :
Docket No.: 03226/787WO1; SUN0639WO :
For: COMPACT RACKMONT STORAGE SERVER :

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 30 April 2007 which are treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 12 January 2007, applicant filed PCT/US2007/000905 with the RO/US. In Box No. IX of the Request, applicant indicated that nine pages of drawings were submitted. However, only 8 sheets of drawings are located in the file. Drawing sheet 8/9 appears to be missing.

On 30 March 2007, the RO/US filed a Notification of Non-Inclusion of Drawings With the International Application (Form PCT/RO/107) indicating that a reference to figure 10 of the drawings was made in page 3 of the description; however, this figure was not included in the international application.

On 30 April 2007, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the date-stamped postcard receipt for the 12 January 2007 filing and a copy of the missing drawing sheet.

DISCUSSION

In the subject petition, applicant claims that "all drawings were filed with the application on January 12, 2007." MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant provided a copy of the date-stamped postcard receipt for the documents submitted 12 January 2007. The postcard receipt records that several documents including "Drawings (9 sheets)" were received in the USPTO. The postcard

receipt is stamped "IAP13 Rec'd PCT/PTO 12 JAN 2007" across its face. The attorney docket number, title and applicant were listed on the postcard receipt. No annotations were present on the postcard receipt.

Accordingly, applicant has provided *prima facie* evidence that 9 sheets of drawings were originally received at the USPTO on 12 January 2007. A copy of the missing drawing (sheet 8/9) was also provided.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is hereby **GRANTED.**

The Form PCT/RO/107 mailed 30 March 2007 is **VACATED**.

This application is being returned to the RO/US for further processing.

A copy of this decision will be sent to the International Bureau and the United States International Searching Authority along with a copy of the missing drawing sheet.

James Thomson
Attorney Advisor
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STANLEY HOWARD ZEYHER
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HADDONFIELD, NJ 08033-1414

In re Application of	:	
Zeyher	:	
PCT No.: PCT/US07/01036	:	
Int. Filing Date: 16 January 2007	:	
Priority Date: 17 April 2006	:	DECISION
Attorney's Docket No.: N/A	:	
For: Planetary Gyroscopic Drive System	:	

This is in response to applicant's petitions filed on 07 February 2007 and 21 May 2007.

BACKGROUND

Applicant filed this international application with the United States receiving Office on 16 January 2007. The United States International Searching Authority (ISA/US) was chosen.

On 07 February 2007, applicant filed a petition requesting that this international application "be given the priority date of 04 August 2005 based on the filing date of US Provisional Application US60/705,156."

DISCUSSION

Petitioner states that

Applicant requests withdraw of the petition regarding the above referenced application.

Applicant has requested in his petition that International Application # PCT/US07/001036 be granted the priority date afforded the US Non Provisional Application # 11/405,172 based upon Provisional application US60/705,156.

Applicant now requests that the petition in reference to the above application be withdrawn.

In view of applicant's request, it would be appropriate to consider the petition filed on 07 February 2007 to have been withdrawn from consideration.

DECISION

The petition filed on 21 May 2007 is **GRANTED** to the extent noted above.

This application is being returned to Technology Center 3600.

George Dombroske
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UNITED STATES PATENT AND TRADEMARK OFFICE

19 JUN 2007

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Richard C. Ekstrom
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Alexandria, VA 22313

In re Application of
THE UNIVERSITY OF KENTUCKY
PCT No.: PCT/US2007/001215
Int. Filing Date: 16 January 2007
Priority Date: 13 January 2006
Docket No.: 1028750-283
For: BIS-QUARTERNARY AMMONIUM SALTS AND METHODS FOR MODULATING NEURONAL NICOTINIC ACETYLCHOLINE RECEPTORS

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 16 May 2007 which are treated as a petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicant filed the subject international application PCT/US2007/001215 using Express Mail service. A return receipt postcard was stamped "15 February 2007" and mailed back to applicant.

On 19 March 2007, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date (IFD) of the subject application is 17 January 2007 with no priority date indicated. An Invitation to Correct Priority Claim (Form PCT/RO/110) was also mailed reporting that the priority claim on Box VI of the Request was over 12 months from the IFD.

On 16 May 2007, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of Express Mail label No. EV883138443OUS.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be amended to 16 January 2007 and that the Form PCT/RO/110 be vacated.

Any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the subject application reveals that all the requirements of 37 CFR 1.10(c) have been satisfied.

The Express Mail label number is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 16 January 2007. Applicant included a copy of the Customer Copy of Express Mail label No. EV883138443OUS which has a "Date Accepted" of "1 16 07" and is stamped by the USPS on its face "JAN 16 2007." Moreover, a review of USPS Track/Confirm records for Express Mail label No. EV883138443OUS show that the documents were accepted by the USPS in Belmont CA on 16 January 2007 at 4:25 pm.

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 and Form PCT/RO/110 mailed 19 March 2007 are both hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an IFD date of **16 January 2006** and a priority date of 13 January 2006 will be mailed with this decision.

This application is being returned to the RO/US for further processing and for the forwarding of a copy of the decision to the International Bureau.

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cc: The International Bureau of WIPO
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2 8 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD J. LONG
CHARM SCIENCES, INC.
659 ANDOVER STREET
LAWRENCE MA 01843-1032

In re Application of	:	DECISION ON
CHARM SCIENCES, INC.	:	
PCT No.: PCT/US07/01229	:	PETITION
Int. Filing Date: 16 January 2007	:	
Priority Date: 13 October 2006	:	
Attorney's Docket No.: 0656-043WO1	:	
For: METHOD AND APPARATUS FOR REDUCING LUMINESCENT TEST RESULT INTERFERENCES	:	

This decision is in response to applicants' "PETITION TO CORRECT POSTCARD INDICATION OF MISSING DRAWINGS" filed 06 February 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 16 January 2007, applicants filed international application papers including a Request, description, claims, and abstract. These papers were assigned international application number PCT/US07/01229.

On 06 February 2007, applicants submitted the instant "PETITION TO CORRECT POSTCARD INDICATION OF MISSING DRAWINGS" which was accompanied by, *inter alia*, an affidavit of Rachel Rodriguez, a copy of an annotated date-stamped postcard receipt, and a copy of a drawing sheet. The petition has been properly treated as a petition under 37 CFR 1.181.

DISCUSSION

Section 503 of the Manual of Patent Examining Procedure (MPEP) states, in part:

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self - addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail....
>
> ...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.

The copy of the date-stamped postcard receipt provided by applicants has been annotated;

the "1" in "Drawing (1 pg)" has been lined through and replaced with a hand-written "0".

A review of the application file reveals that there is no drawing page therein. Section 513 of the MPEP states in part:

> [W]here 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.

The declaration of Rachel Rodriguez has been considered. The declaration states that she prepared the items listed including a drawing page and placed all items into an Express Mail envelope and hand delivered the envelope to the U.S. Post Office. However, these statements were made almost three weeks after the event in question. Moreover, these statements are contradicted by the annotated postcard receipt from the USPTO. The postcard receipt from the USPTO is a contemporaneous account of the contents of the Express Mail package when opened by a disinterested third party (a Federal contract employee). The annotated postcard receipt and the contents of the file are not outweighed by the evidence submitted by applicants.

The page of drawings filed 06 February 2007 will not be entered unless applicants instruct otherwise. If applicants do instruct the RO/US to enter this page of drawings, a new filing date will be accorded the international application; 06 February 2007 (the day the page was received) rather than 16 January 2007. See PCT Rule 20(a)(iii) which states:

> (a) In cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request (still leaving legible, however, the earlier date or dates already marked) so that it indicates the day on which the papers completing the international application were received, provided that
> (iii) in the case of Article 14(2), the missing drawings are received within 30 days from the date on which the incomplete papers were filed;

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 to accept the drawing page filed 06 February 2007 as having been originally received on 16 January 2007 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to the RO/US for continued processing in accordance with this decision including processing the application without the drawings filed 06 February 2006 and according the application an international filing date of 16 January 2007.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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11 MAY 2007

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In re Application of	:	
SLOAN-KETTERING INSTITUTE	:	
PCT No.: PCT/US07/01427	:	DECISION ON PETITION
Int. Filing Date: 17 January 2007	:	
Priority Date: 17 January 2006	:	UNDER 37 CFR 1.10
Atty. Docket No.: 639-F-PCT	:	
For: THERAPY-ENHANCING GLUCAN	:	

This decision is in response to applicant's "COMMUNICATION TO CORRECT FILING DATE" filed in the United States Patent and Trademark Office (USPTO) on 20 March 2007. The communication is being treated as a petition under 37 CFR § 1.10(c). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to earlier United States application filed 17 January 2006.

The United States Receiving Office (US/RO) accorded the application an international filing date of 18 January 2007. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 20 April 2007.

On 20 March 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 17 January 2006 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 18 January 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm database shows acceptance by the USPS on "January 17, 2007, 6:33 pm, Whitestone, NY 11357." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 20 April 2007 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 17 January 2007 and corrected first page of the PCT request form are enclosed with this decision.

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

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CC: International Bureau of WIPO
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15 JUN 2007

HARRY F. SMITH
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SHELTON, CT 06484-6212

In re Application of BROWN UNIVERSITY :
PCT Application No.: PCT/US2007/001928 :
Int. Filing Date: 25 January 2007 : DECISION
Priority Date Claimed: 24 January 2006 :
Attorney Docket No.: 904.0133.U1(WO) :
For: EFFICIENT CONTENT AUTHENTICATION :
IN PEER-TO-PEER NETWORKS :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.10(d)" filed 11 June 2007.

BACKGROUND

On 24 January 2007, applicant purportedly filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee Service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 25 January 2007.

On 27 March 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 04 April 2007, applicant filed a petition under 37 CFR 1.10(d).

On 16 May 2007, this Office mailed a decision dismissing the 04 April 2007 petition.

On 11 June 2007, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3), the petition contains an adequate showing that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 24 January 2007 (see affidavit of Lisa Mrozek). Furthermore, the petition includes sufficient corroborating evidence from the USPS in the form of a dated register receipt.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 27 March 2007 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

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ATTACHMENT: Corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT AND TRADEMARK OFFICE

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10 SEP 2007

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Whitestone, NY 11357

In re Application of	:	
GLOBOASIA, LLC	:	
PCT No.: PCT/US07/02157	:	
Int. Filing Date: 26 January 2007	:	DECISION
Priority Date: 30 January 2006	:	
Attorney's Docket No.: 1148-A-PCT	:	
For: METHOD OF REVERSING, PREVENTING, DELAYING OR STABILIZING SOFT TISSUE CALCIFICATION	:	

This decision is in response to applicant's "STATEMENT UNDER PCT RULE 4.15(b)" filed 27 April 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO on 26 January 2007 and claimed priority to an earlier application filed 30 January 2006.

On 30 March 2007, applicant was mailed an "Invitation to Correct Defects" (Form PCT/RO/106) indicating that the PCT Request form filed 26 January 2007 was not signed.

On 25 April 2007, applicant responded with a new PCT Request form signed by applicant Keith Chan. The Box VIII(iv) declaration was executed by Keith Chan and inventor Winslon Town.

On 27 April 2007, applicant filed the present statement under PCT Rule 4.15(b).

DISCUSSION

Applicant is advised that the United States Receiving Office does not require the filing of a declaration during the international phase; as the Request form filed 25 April 2007 was signed by at least one of the applicants, applicant's present petition is **DISMISSED as moot**.

Applicant is advised that a signed declaration of the inventors will be required should

applicant enter the U.S. National phase. If inventor Chang refuses to sign a declaration at that time or can not be located, applicant should proceed pursuant to 37 CFR 1.47.

CONCLUSION

For the reasons stated above, applicant's petition is **DISMISSED as moot**.

This application is being returned to the RO/US for continued processing.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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26 JUL 2007

EDWARDS, ANGELL, PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of	:	
SUTURTEK INCORPORATED et al.	:	DECISION TO
PCT No.: PCT/US07/02204	:	
Int. Filing Date: 29 January 2007	:	PETITION UNDER
Priority Date: 26 January 2006	:	
Attorney's Docket No.: 67284WO(225719)	:	37 CFR 1.181
For: Apparatus And Method For Tissue Closure	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 For Entry Of Drawing And Maintenance Of Original International Filing Date Of January 29, 2007," filed 04 May 2007.

BACKGROUND

On 29 January 2007, applicants filed international application PCT/US07/02204, claiming a priority date of 26 January 2006.

On 05 April 2007, the United States Receiving Office (US/RO) mailed the following: Notification Concerning Payment of Fees (Form PCT/RO/102); Notification of the International Application Number and International Filing Date (Form PCT/RO/105); Invitation to Correct Defects (Form PCT/RO/106); and Notification of Non-Inclusion of Drawings (Form PCT/RO/107).

On 04 May 2007, applicants filed the instant petition indicating that fifty-three sheets of drawing were originally submitted on 29 January 2007. Applicants claim that Figure 39C, on page fifty one of the drawings, was included in the original filing and, as proof, have included a copy of the itemized return postcard receipt and a declaration by Denise Kacinski.

DISCUSSION

Applicants state in the instant petition that, "Fig.39(C) was originally filed with the instant application on January 29, 2007." Based on applicants' statements in the instant petition, the declaration by Denise Kacinski, a person who has first hand knowledge that fifty three sheets of drawings were originally filed and, the itemized return postcard bearing the 29 January 2007 USPTO receipt stamp, it is concluded that the original application papers filed by applicants on 29 January 2007 included fifty three sheets. Accordingly, Figure 39(C) (sheet 51/53 of the drawings), is properly included in the present application and accorded a filing date of 29 January 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the RO/US for further processing, including: (1) forwarding a copy of this decision to the International Bureau; and (2) forwarding a copy of Figure 39(C) (sheet 51/53 of the drawings) to the International Bureau for inclusion in the published international application as filed.

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Stefan Staicovici
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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30 AUG 2007

DLA PIPER US LLP
2000 UNIVERSITY AVENUE
EAST PALO ALTO, CALIFORNIA 94303

In re Application of	:	
BIG BANG IDEAS LLC, et al.	:	
PCT No.: PCT/US07/02356	:	DECISION ON
Int. Filing Date: 24 January 2007	:	
Priority Date: 24 January 2006	:	PETITION UNDER
Attorney's Docket No.: 355143-5180	:	
For: Extinguisher Food Product And Method Of Manufacture	:	37 CFR 1.10(c)
	:	

This decision is in response to applicant's "Response To The Invitation To Correct Priority Claim And Petition To Correct The International Filing Date In The International Application," filed 25 May 2007, which is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 24 January 2007 to the above-identified application.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 26 January 2007 to the above-identified application.

On 09 May 2007, United States Receiving Office (RO/US) mailed the following: Notification Concerning Payment of Fees (Form PCT/RO/102); Notification of the International Application Number and International Filing Date (Form PCT/RO/105) and, Invitation To Correct Priority Claim (Form PCT/RO/110).

On 25 May 2007, applicant filed the present petition including, *inter alia*, a copy of the Customer Receipt of the United States Postal Service (USPS) "Express Mail" label showing Express Mail label number "EV978413415US" and a "Date-In" of 24 January 2007 and a copy of applicants' postcard receipt showing a date stamp of 26 January 2007 and Express Mail label number "EV978413415US".

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" mailing on 24 January 2007. Specifically, the Customer receipt of the USPS "Express Mail" label shows a "Date-In" of 24 January 2007 and the "Express Mail" label number ("EV738974875US ") appears on the Transmittal Letter, received by the United States Patent and Trademark Office on 26 January 2007. Therefore, the indication of the "Express Mail" label number appearing on the Transmittal Letter ties the Customer receipt of the USPS "Express Mail" label and the Transmittal Letter together, such that it is clear that the international application was deposited on 24 January 2007.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 24 January 2007 is **GRANTED.**

The Notification of the International Application and of the International Filing Date (Form PCT/RO/105) and the Invitation To Correct Priority Claim (Form PCT/RO/110), mailed 15 May 2007, are hereby **VACATED**.

This application is being forwarded to the United States Receiving Office for further processing. A corrected PCT/RO/105 and front page of the Request will be mailed to the International Bureau.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208
Facsimile: (571) 273-0459

CC:
Attachments:

Corrected PCT/RO/105
Corrected front page of Request Form PCT/RO/101

International Bureau
PCT Receiving Office Section
34, chemin des Colombettes
1211 Geneva 20
Switzerland

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

Kelly de la Torre
BROWNSTEIN HYATT FARBER SCHRECK, P.C.
410 Seventeenth St., Suite 2200
Denver, CO 80202

In re Application of	:	
SPYDER LYNX, LLC	:	
PCT No.: PCT/US07/02451	:	DECISION ON PETITIONS
Int. Filing Date: 27 January 2007	:	UNDER 37 CFR 1.181 AND
Priority Date: 27 January 2006	:	REQUEST FOR REFUND
Agent's File Reference: 10757.0001/PCT	:	UNDER 37 CFR 1.446
For: ENCODING AND DECODING DATA IN AN IMAGE	:	

This decision is in response to applicants' communication filed 16 May 2007. Applicants' communication has been treated as a petition under 37 CFR 1.446 for the refund of excess search fees in the amount of $700 and to vacate the Form PCT/RO/110 mailed 30 April 2007 pursuant to 37 CFR 1.181. The petitions are **DISMISSED.**

BACKGROUND

On 27 January 2007, applicants filed international application PCT/US07/02451. Applicants claimed priority to two U.S. provisional applications filed 27 January 2006 as well as to a U.S. non-provisional application filed 27 January 2007.

On 30 April 2007, the United States Receiving Office (RO/US) mailed, inter alia, an "INVITATION TO CORRECT PRIORITY CLAIM" (Form PCT/RO/110) informing applicants that the priority claim as indicated in item VI-3 of the PCT Request was not filed prior to the present international application.

On 16 May 2007, applicants filed the present petitions requesting a refund of excess search fees in the amount of $700 and to vacate the Form PCT/RO/110 mailed 30 April 2007.

DISCUSSION

37 CFR 1.445(a)(2)(i) provides that:

"If a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under section 1.16(a) has been filed and the corresponding prior United States National application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably

the application docket number), in the international application or accompanying papers at the time of filing the international application.....$300.

***

A review of the PCT Request reveals that the priority application indicated in Box VI-3 was filed concurrently with the present international application on 27 January 2007 and that the Form PCT/RO/110 correctly informed applicants of this defect. MPEP 1819 states in part that *"A corresponding U.S. national application having the same filing date as the international application is not a "prior" application for the purposes of 37 CFR 1.445(a)(2)"*. Therefore, applicants have not satisfied the conditions set forth in 37 CFR 1.445(a)(2)(i) for a reduced search fee. Further, pursuant to PCT Rule 4.10 the priority date is not a date falling within the period of 12 months preceding the international filing date. Accordingly, applicants' petition for a refund in the amount of $700 and to vacate the Form PCT/RO/110 mailed 30 April 2007 cannot be granted.

CONCLUSION

For the above reasons, the petition for refund and to vacate the Form PCT/RO/110 mailed 30 April 2007 is **DISMISSED.**

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BM:jf

(571) 272-3284

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

14 SEP 2007

Jeanette Kramarz
EASTMAN KODAK COMPANY
343 State Street
Rochester, NY 14650-2201

In re Application of
EASTMAN KODAK COMPANY
PCT No.: PCT/US07/03371
Int. Filing Date: 08 February 2007
Priority Date: 10 February 2006
Agent's File Reference: 88925RRS
For: SELF-CALIBRATING PRINTER AND PRINTER CALIBRATION METHOD

DECISION UNDER
37 CFR 1.181

Applicants' 24 July 2007 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 08 January 2007 to 08 February 2007. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 08 February 2007, applicants filed international application PCT/US07/03371, which claimed priority to a U.S. application filed 10 February 2006.

On 01 May 2007, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating an 08 January 2007 international filing date.

On 24 July 2007, applicants filed the present petition informing the RO/US that the 08 January 2007 international filing date is incorrect and should be changed to 08 February 2007.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO" (emphasis added).

A review of the 24 July 2007 communication reveals that international application

PCT/US07/03371 was received in the USPTO on 08 February 2007. The proof is in the form of a copy of the return receipt postcard which includes a USPTO date stamp indicating that all the items listed thereon were received in the Office on 08 February 2007. Therefore, the 08 January 2007 international filing date as indicated on the Form PCT/RO/105 mailed 01 May 2007 is incorrect. The correct international filing date for the present international application is 08 February 2007.

CONCLUSION

Applicants' 24 July 2007 petition to correct the international filing date from 08 January 2007 to 08 February 2007 is hereby **GRANTED.** The Form PCT/RO/105 mailed 01 May 2007 is **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating an 08 February 2007 international filing date are being sent to the International Bureau.

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

Telephone (571) 272-3284
Facsimile (571) 273-0459

JSF/LS:jf

Enclosures: copy of corrected Form PCT /RO/105
and copy of corrected first page of PCT Request.

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

24 JUL 2007

MORLAND C. FISCHER
2030 MAIN STREET, SUITE 1050
IRVINE CA CALIFORNIA 92614

In re Application of	:
MARK NALLEY	:
PCT No.: PCT/US07/03503	: DECISION ON PETITION
Int. Filing Date: 09 February 2007	:
Priority Date: 08 February 2006	:UNDER 37 CFR 1.10(c)
Atty. Docket No.: NALL10PCT	:
For: WEIGHT PLATE WITH EXTERNALLY ACTUATED INTERNAL LOCKING DEVICE	:

This is a decision on applicant's "Request for Corrected International Filing Date", treated as a Petition under 37 CFR 1.10(c) to accord an international filing date of 8 February 2007. The petition was filed in the United States Patent and Trademark Office (USPTO) on 16 May 2007. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/03503, which claimed a priority date of 08 February 2006 and which designated the United States.

On 03 May 2007, a Notification of International Application Number and of the International Filing Date was mailed to applicant, indicating that the International filing date was 09 February 2007.

On 16 May 2007, applicant filed the present request.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Petitioner has not submitted any evidence concerning the Express mailing of the international papers. The USPTO records indicate that the application papers were filed on 09 February 2007. Without sufficient evidence to the contrary, the international filing date remains 09 February 2007. A review of the transmittal letter reveals that the "Express Mail" mailing label number (EL092399414US) is contained therein. Petitioner has not provided any evidence of deposit of the papers at issue with the USPS on 8 February 2007. See MPEP Section 513.

The evidence of record is insufficient to establish with reasonable certainty that the international application papers were deposited with the USPS as an "Express Mail" Mailing on 08 February 2007.

CONCLUSION

Applicant's petition requesting that the international application be accorded an international filing date of 08 February 2007 is **DISMISSED WITH OUT PREJUDICE**.

The international filing date remains 09 February 2007.

Any reconsideration on the merits of the petition under 37 CFR §1.10(c) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10(c)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12 JUN 2007

Christopher A. Eusebi
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of
ELAN PHARMACEUTICALS, INC.
PCT No.: PCT/US2007/004185
Int. Filing Date: 19 February 2007
Priority Date: 11 May 2006
Docket No.: 8479-001/POK
For: TANDOM REACTOR SYSTEM HAVING AN INJECTIVELY-MIXED BACKMIXING REACTION CHAMBER, TUBULAR-REACTOR, AND AXIALLY MOVABLE INTERFACE

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 06 April 2007 which are treated as a petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicant filed the subject international application PCT/US2007/004185 using Express Mail service. A return receipt postcard was stamped "15 February 2007" and mailed back to applicant.

On 06 April 2007, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of Express Mail label No. EV879353675US and a copy of USPS Track/Confirm records for Express Mail No. EV879353675US.

On 14 May 2007, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date (IFD) of the subject application is 15 February 2007.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be amended to 19 February 2007.

Any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the subject application reveals that all the requirements of 37 CFR 1.10(c) have been satisfied.

The Express Mail label number is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 19 February 2007. Applicant included a copy of the Customer Copy of Express Mail label No. EV879353675US which has a "Date Accepted" of "12-19-07." Moreover, a review of USPS Track/Confirm records for Express Mail label No. EV879353675US show that the documents were accepted by the USPS on 19 February 2007.

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 mailed 14 May 2007 is **VACATED**.

A corrected Form PCT/RO/105 indicating an IFD of **19 February 2007** will be mailed with this decision.

This application is being returned to the RO/US for further processing and for

the forwarding of a copy of this decision to the International Bureau.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

SUZANNE BIGGS
DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101

In re Application of	:	
MYOLINK, LLC	:	
PCT No.: PCT/US07/04200	:	DECISION ON
Int. Filing Date: 16 February 2007	:	
Priority Date: 17 February 2006	:	PETITION
Docket No.: E3695-00025	:	
For: PHARMACEUTICAL FORMULATIONS ... CHRONIC MUSCLE PAIN	:	UNDER 37 CFR 1.181

This is a decision on applicants' "Petition For Reconsideration and to Vacate Notification that International Application Considered to be Withdrawn and to Reinstate Withdrawn Application," filed in the United States Patent and Trademark Office on 16 August 2007. They have been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 16 February 2007, applicant submitted *inter alia*, a Request, description, claims and an abstract.

On 21 March 2007, the Office mailed Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) indicating that applicants had a balance of $2388.

On 20 April 2007, the Office mailed Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the application had an international filing date of 16 February 2007 and Invitation to Correct Defects (Form PCT/RO/106).

On 10 May 2007, the Office mailed Invitation to Pay Prescribed Fees Together with Late Fee (Form PCT/RO/133) indicating that applicants had a balance of $2911 and an additional $20 for transmittal of the priority document. The Invitation had a one month period for response.

On 16 May 2007, applicants filed a response to the Invitation to Correct Defects. The response included an authorization to charge required fees.

On 17 July 2007, the Office mailed Notification that International Application Considered to be Withdrawn (Form PCT/RO/117), indicating that the application was considered to be withdrawn as applicants had failed to pay the prescribed fees.

On 16 August 2007, applicants filed this petition to vacate the form PCT/RO/117.

DISCUSSION

The authorization in 16 May 2007 submission is sufficient to authorize the payment of the outstanding fees and late fee. As such, the application should not have been withdrawn for non-payment of the fees.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification that International Application Considered to be Withdrawn (Form PCT/RO/117) mailed 17 July 2007 is **VACATED**.

This application is being forwarded to the United States Receiving Office for further processing consistent with this decision.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

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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SUZANNE BIGGS
DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101

In re Application of	:	
MYOLINK, LLC	:	
PCT No.: PCT/US07/04200	:	DECISION ON
Int. Filing Date: 16 February 2007	:	
Priority Date: 17 February 2006	:	PETITION
Docket No.: E3695-00025	:	
For: PHARMACEUTICAL FORMULATIONS ... CHRONIC MUSCLE PAIN	:	UNDER 37 CFR 1.181

This is a decision on applicants' "Petition For Reconsideration and to Vacate Notification that International Application Considered to be Withdrawn and to Reinstate Withdrawn Application," filed in the United States Patent and Trademark Office on 16 August 2007. They have been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 16 February 2007, applicant submitted *inter alia*, a Request, description, claims and an abstract.

On 21 March 2007, the Office mailed Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) indicating that applicants had a balance of $2388.

On 20 April 2007, the Office mailed Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the application had an international filing date of 16 February 2007 and Invitation to Correct Defects (Form PCT/RO/106).

On 10 May 2007, the Office mailed Invitation to Pay Prescribed Fees Together with Late Fee (Form PCT/RO/133) indicating that applicants had a balance of $2911 and an additional $20 for transmittal of the priority document. The Invitation had a one month period for response.

On 16 May 2007, applicants filed a response to the Invitation to Correct Defects. The response included an authorization to charge required fees.

On 17 July 2007, the Office mailed Notification that International Application Considered to be Withdrawn (Form PCT/RO/117), indicating that the application was considered to be withdrawn as applicants had failed to pay the prescribed fees.

On 16 August 2007, applicants filed this petition to vacate the form PCT/RO/117.

DISCUSSION

The authorization in 16 May 2007 submission is sufficient to authorize the payment of the outstanding fees and late fee. As such, the application should not have been withdrawn for non-payment of the fees.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification that International Application Considered to be Withdrawn (Form PCT/RO/117) mailed 17 July 2007 is **VACATED**.

This application is being forwarded to the United States Receiving Office for further processing consistent with this decision.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Attorney Docket No.: E3695-00025

DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101
PHONE: 619.744.2200
FAX: 619.744.2201

FACSIMILE TRANSMITTAL SHEET

In re application of: **MyoIInk LLC** Authorized Officer: **Paul Urrutia**

International Application No.:
PCT/US2007/004200

International Filing Date: **February 16, 2007**

For: **PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN**

RECEIVED
16 AUG 2007
Legal Staff
International Division

TO:	Office of PCT Legal Administration Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
FACSIMILE NUMBER:	571-273-0459
CONFIRMATION TELEPHONE:	
FROM:	Suzanne L. Biggs
DIRECT DIAL:	619.744.2210
DATE:	August 16, 2007
TOTAL # OF PAGES: (INCLUDING COVERSHEET)	
MESSAGE:	**Attached is a 1) Petition for Reconsideration and to Vacate Notification that International Application Considered to be Withdrawn and to Reinstate Withdrawn Application and 2) Declaration of Suzanne L. Biggs.**

NOTE: Original will not follow

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THIS FACSIMILE TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE REVIEW OF THE PARTY TO WHOM IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY TELEPHONE THE SENDER ABOVE TO ARRANGE FOR ITS RETURN, AND IT SHALL NOT CONSTITUTE WAIVER OF THE ATTORNEY-CLIENT PRIVILEGE.

If there is a problem with this transmission, please call us as soon as possible at 619.744.2200.

Attorney Docket No.: E3695-00025

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PCT Receiving Office Section (RO/US)

Application of:

Myolink LLC

International Application Number:

PCT/US2007/004200

International Filing Date

Filed: February 16, 2007

For: PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN

Docket No. E3695-00025

Authorized Officer: Paul Urrutia

RECEIVED
16 AUG 2007
Legal Staff
International Division

VIA FACSIMILE

CERTIFICATE OF MAILING/FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this correspondence (and anything referred to as being transmitted herewith) is being facsimile transmitted to Mail Stop PCT, Commissioner for Patents (Fax No. 571-273-0459) on the date shown below.

Date: August 16, 2007

Maria E. Provencio

Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR RECONSIDERATION AND TO VACATE NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN AND TO REINSTATE WITHDRAWN APPLICATION

Applicant requests that the Notification mailed 14 July 2007 be reconsidered and the determination that PCT/US2007/004200 is withdrawn as set forth in the Notification be vacated. Applicant's attorneys request that the above-identified International Application be reinstated and that Deposit Account No. 04-1679 be charged for any fees due for this Application, including any fees required by the 10 May 2007 Notice to Pay Prescribed Fees and any fees for late payment of fees or reinstatement.

Enclosed in support of this Petition is a Declaration of Suzanne L. Biggs, Applicant's Attorney.

The above identified PCT Application has an International Filing Date of February 16, 2007.

Applicant's attorneys received a copy of the Invitation to Correct Defects in International Application with a Mailing Date of 20 April 2007. The Invitation required correction of defects in the international application as filed and set a one-month period of response.

On 16 May 2007, the undersigned Applicant's attorney timely submitted a Response to Correct Defects in the International Application by facsimile with a Certificate of Mailing/Facsimile Transmission pursuant to 37 C.F.R §1.8. A copy of the Response (with confirmations of facsimile transmission) is attached as Exhibit A hereto. The Response directed that Deposit Account 04-1679 be charged for any requisite fees incurred in connection with this matter.

On or about July 23, 2007, Applicant's attorneys received notification that International Application Considered to be Withdrawn with a mailing date of 14 July 2007. The Notice indicated that Applicant failed to respond to an Invitation to Pay Prescribed Fees from the US/RO mailed 10 May 2007.

Applicant submits that, in view of the authorization to charge the Deposit Account of Applicant's Attorneys for any fees due with this matter present in the Response to Invitation to Correct Defects in International Application, the fees mentioned in the Invitation to Pay Prescribed Fees Together with Late Payment Fee mailed May 10, 2007 should have been properly charged to Applicant's attorneys' Deposit Account No. 04-1679.

Applicant requests reconsideration of the Notification that International Application Considered to be Withdrawn and that the Notification be vacated on the basis that proper authorization complete with authorizing signature and deposit account number was provided to the United States Receiving Office and the Response to Invitation to Correct Defects which was timely filed 16 May 2007 and that the fees set forth in the Invitation to Pay Prescribed Fees Together with Late Payment Fee should have been charged to Applicant's attorneys' Deposit Account No. 04-1679 as authorized in the Response to Invitation to Correct Defects. See Exhibit A.

Applicant requests reconsideration of the Notification That Application Considered to be Withdrawn, and requests that the Notification That Application Considered to be Withdrawn be vacated, that the present Application be reinstated and that Applicant's Attorneys' Deposit Account No. 04-1679 be charged for any fees due in connection with this

Attorney Docket No.: E3695-00025

Application, including any late fees including the fees set forth in the Notice to Pay Prescribed Fees mailed 10 May 2007 and any fees due for reinstatement of the Application.

Respectfully Submitted

Dated: August 16 2007

Suzanne L. Biggs
Attorney/Agent for Applicant
Reg. No. 30,158 (US)

EXHIBIT A

EXHIBIT A

Attorney Docket No.: E3695-00025

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PCT Receiving Office Section (RO/US)

Application of:

Myolink LLC

International Application Number:

PCT/IB2007/004200

International Filing Date

Filed: February 16, 2007

For: PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN

Docket No. E3695-00025

Authorized Officer: Vanessa Moore

VIA FACSIMILE

CERTIFICATE OF MAILING/FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this correspondence (and anything referred to as being transmitted herewith) is being facsimile transmitted to Mail Stop PCT, Commissioner for Patents (Fax No. 571-273-3201) on the date shown below.

Date: May 16, 2007

Maria E. Provencio

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

RESPONSE TO INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION

Dear Sirs:

In response to Invitation to Correct Defects mailed on 20 April, 2007 in connection with the above-referenced application, Applicant submits herewith the following:

1. Copy of the Invitation to Correct Defects in the International Application mailed 20 April 2007; and

Attorney Docket No.: E3695-00025

2. Replacement sheet of Page 1 of the PCT Description/Specification filed on 16 February, 2007.

Remarks

In response to the Invitation to Correct Defects in the International Application mailed 20 April 2007 (copy enclosed), Applicant encloses herewith replacement page No. 1 of the PCT Description, including the page numbering in Arabic numerals as specified in item "l" of the Annex B1 to Form PCT/RO/106. Applicant notes that the other pages are already numbered in consecutive Arabic numerals.

Applicant believes the instant reply is timely filed as it is being submitted within 1 month from the date of mailing of the Invitation to Correct Defects. However, if it is determined that an extension of time is needed, Applicant hereby submits a request for extension of time pursuant to PCT Rule 20.6 and 26.2 and (and Section 244) of the PCT Applicants Guide if such a request for extension of time is required.

No additional fees are believed due in connection with the filing of this paper, however, if it is determined that fees are due, the Receiving Office is authorized to charge Deposit Account No. 04-1679 for any requisite fees incurred in connection with this matter.

Respectfully submitted,

Dated: May 16, 2007

Suzanne L. Biggs
Attorney/Agent for Applicant
Reg. No. 30,158 (US)

DUANE MORRIS LLP
101 West Broadway, Suite 900
San Diego, CA 92101
Telephone: (619) 744-2200
Facsimile: (619) 744-2201
Attorney Docket No. E5106-00008

DOCKETED

RECEIVED
APR 23 2007

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
SUZANNE BIGGS
DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CALIFORNIA 92101

PCT

INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION

(PCT Articles 3(4)(i) and 14(1) and Rule 26)

Date of mailing *(day/month/year)*	20 Apr 2007
Applicant's or agent's file reference: E3695-00025	REPLY DUE within 1 months/days from the above date of mailing
International application No.: PCT/US2007/004200	International filing date *(day/month/year)*: 16 Feb 2007
Applicant: MYOLINK, LLC	

1. [X] The applicant is hereby invited, within the time limit indicated above, to correct, in the international application as filed, the defects specified on the attached:
   - [ ] Annex A
   - [X] Annex B1 *(text matter of the international application as filed)*
   - [ ] Annex C1 *(drawings of the international application as filed)*

2. [ ] The applicant is hereby invited, within the time limit indicated above, to correct, in the translation of the international application furnished under Rule 12.3 or 12.4, the defects specified on the attached:
   - [ ] Annex A
   - [ ] Annex B2 *(text matter of the translation of the international application)*
   - [ ] Annex C2 *(drawings of the translation of the international application)*

Additional observations (if necessary):

HOW TO CORRECT THE DEFECTS?

Correction must be submitted by filing a replacement sheet embodying the correction and a letter accompanying the replacement sheet, which shall draw attention to the difference between the replaced sheet and the replacement sheet. A correction may be stated in a letter only if it is of such a nature that it can be transferred from the letter to the record copy without adversely affecting the clarity and direct reproducibility of the sheet onto which the correction is to be transferred (Rule 26.4).

ATTENTION

Failure to correct the defects will result in the international application being considered withdrawn by this receiving Office (see Rule 26.5 for further details).

A copy of this invitation and any attachments has been sent to the International Bureau
- [X] and the International Searching Authority

Name and mailing address of the receiving Office Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 Facsimile No. 571-273-3201	Authorized officer Vanessa Moore Telephone No. 703-308-9290 EX 108

Form PCT/RO/106 (January 2004)

ANNEX B1 TO FORM PCT/RO/106

International application No.
PCT/US2007/004200

This receiving Office has found that, with regard to the presentation of the text matter of the international application as filed, the physical requirements are not complied with to the extent that compliance therewith is necessary for:

1. ☐ reasonably uniform international publication (Rules 11 and 26.3(a)(i)) *(defects to be specified)*:

		Request	Description	Claims	Abstract
a. ☐	the sheets do not admit of direct reproduction	☐	☐	☐	☐
b. ☐	the element does not commence on a new sheet	☐	☐	☐	☐
c. ☐	sheets are not free from creases, cracks, folds	☐	☐	☐	☐
d. ☐	sheets are not used in the upright position	☐	☐	☐	☐
e. ☐	one side of the sheets is not left unused	☐	☐	☐	☐
f. ☐	the paper of the sheets is not flexible/strong/white/smooth/non-shiny/durable	☐	☐	☐	☐
g. ☐	the sheets are not connected as prescribed (Rule 11.4(b))	☐	☐	☐	☐
h. ☐	sheets are not A4 size (29.7cm x 21cm)	☐	☐	☐	☐
i. ☐	the minimum margins on the sheets are not as prescribed (top: 2cm; left side: 2.5cm; right side: 2cm; bottom: 2cm)		☐	☐	☐
j. ☐	the file reference number indicated on the sheets does not appear in the left-hand corner of the sheets, within 1.5 cm of the top of the sheets		☐	☐	☐
k. ☐	the file reference number exceeds the maximum of 12 characters	☐	☐	☐	☐
l. ☒	the sheets of the description, claims and abstract are not numbered in consecutive Arabic numerals		☒	☐	☐
m. ☐	the sheet numbers are not centered at the top or bottom of the sheets	☐	☐	☐	☐
n. ☐	the sheet numbers are in the margin (see l. above for the size of the margins)		☐	☐	☐
o. ☐	the text matter is not typed or printed	☐	☐	☐	☐
p. ☐	the typing on the sheets is not 1½-spaced		☐	☐	☐
q. ☐	the characters in the text matter on the sheets are less than 0.21 cm high in capital letters	☐	☐	☐	☐
r. ☐	the text matter on the sheets is not in dark, indelible color	☐	☐	☐	☐
s. ☐	the element contains drawings	☐	☐	☐	☐
t. ☐	the sheets contain alterations/overwritings/interlineations/too many erasures	☐	☐	☐	☐
u. ☐	the sheets contain photocopy marks	☐	☐	☐	☐

2. ☐ satisfactory reproduction (Rules 11 and 26.3(b)(i))

Further observations (if necessary):

Please number the first page of the description.

E3695.00025

PHARMACEUTICAL FORMULATIONS OF SYMPATHETIC ANTAGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN

This application claims priority to United States Provisional Application No. 60/774,776 filed February 17, 2007.

BACKGROUND

It is estimated that up to 20% of the adult population in the United States suffers from chronic and recurrent muscle pain. Each year chronic muscle pain affects 24 million Americans and results in 4.1 million hospitalizations, 3.75 million operations (11.5% of all operations), and 30 million office visits.

Approximately 21 million persons suffer low back pain per year, resulting in a total annual cost of between $20-56 billion. The lifetime prevalence of low back pain lasting 1 or more days of the American population is 56%, 70% of whom consulted physicians. Of those patients with low back pain lasting more that 2 weeks, 31% are hospitalized, and 11.6% undergo surgery. Only 1% of lower back pain sufferers have surgical lumbar disk disease; surgery to remedy this, condition is associated with a 15-30% failure rate, where return to the same occupation is used as a measure of the outcome. The principal reason for failure is incorrect diagnosis. Ironically, psychologic evaluation seems more predictive of a successful outcome following surgery than the current diagnostic studies or surgical findings.

The prevalence of other neuromuscular disorders besides back pain is 53%. Of that percentage, headaches account for 73% and temporomandibular disorders for 12.3%. Both of these conditions are primarily muscular in nature. The total annual cost of headaches alone is $16 billion, while the total annual cost for all other neuromuscular disorders is $11 billion.

Chronic muscle pain, which may comprise pain associated with headaches, neck and lower back problems, fibromyalgia, temporomandibular disorders and myofascial

Attorney Docket No.: E3695-00025

DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101
PHONE: 619.744.2200
FAX: 619.744.2201

FACSIMILE TRANSMITTAL SHEET

In re application of: **Myolink LLC**

Authorized Officer: **Vanessa Moore**

International Application No.:
PCT/IB2007/004200

International Filing Date: **February 16, 2007**

For: **PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN**

TO:	Mail Stop PCT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
FACSIMILE NUMBER:	571-273-3201
CONFIRMATION TELEPHONE:	
FROM:	Suzanne L. Biggs
DIRECT DIAL:	619.744.2210
DATE:	May 16, 2007
TOTAL # OF PAGES: (INCLUDING COVERSHEET)	
MESSAGE:	**Attached is a Response to Invitation to Correct Defects in the International Application and copy of the Invitation to Correct Defects in the International Application.**

NOTE: Original will not follow

CONFIDENTIALITY NOTICE

THIS FACSIMILE TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE REVIEW OF THE PARTY TO WHOM IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY TELEPHONE THE SENDER ABOVE TO ARRANGE FOR ITS RETURN, AND IT SHALL NOT CONSTITUTE WAIVER OF THE ATTORNEY-CLIENT PRIVILEGE.

****
*** TX REPORT ***
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TRANSMISSION OK

TX/RX NO	3033
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DESTINATION ID	
ST. TIME	05/16 16:26
TIME USE	02'55
PAGES SENT	6
RESULT	OK

DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101
PHONE: 619.744.2200
FAX: 619.744.2201

Attorney Docket No.: E3695-00025

FACSIMILE TRANSMITTAL SHEET

In re application of: **Myolink LLC**

Authorized Officer: **Vanessa Moore**

International Application No.:
PCT/IB2007/004200

International Filing Date: **February 16, 2007**

For: **PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN**

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

FACSIMILE NUMBER: 571-273-3201

CONFIRMATION TELEPHONE:

FROM: Suzanne L. Biggs

DIRECT DIAL: 619.744.2210

DATE: May 16, 2007

TOTAL # OF PAGES:
(INCLUDING COVERSHEET)

:Auto-reply fax to 6197442[illegible] COMPANY:

Auto-Reply Facsimile Transmission

TO: Fax Sender at 6197442201

Fax Information
Date Received: 5/16/2007 7:25:45 PM [Eastern Daylight Time]
Total Pages: 6 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received Cover Page ==========>

05/16/2007 16:28 FAX 8187443201 001/008

DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101
PHONE 619.744.2200
FAX 619.744.2201

Attorney Docket No.: B3695-00021

FACSIMILE TRANSMITTAL SHEET

In re application of: Myolink LLC Authorized Officer: Vanessa Moore

International Application No.
PCT/IB2007/004200

International Filing Date: February 16, 2007

For: PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN

TO:	Mail Stop PCT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
FACSIMILE NUMBER:	571-273-3201
CONFIRMATION TELEPHONE:	
FROM:	Suzanne L. Biggs
DIRECT DIAL:	619.744.2210
DATE:	May 16, 2007
TOTAL # OF PAGES: (INCLUDING COVERSHEET)	
MESSAGE:	Attached is a Response to Invitation to Correct Defects in the International Application and copy of the Invitation to Correct Defects in the International Application.

NOTE: Original will not follow

CONFIDENTIALITY NOTICE

THIS FACSIMILE TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE REVIEW OF THE PARTY TO WHOM IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY TELEPHONE THE SENDER ABOVE TO ARRANGE FOR ITS RETURN, AND IT SHALL NOT CONSTITUTE WAIVER OF THE ATTORNEY-CLIENT PRIVILEGE.

If there is a problem with this transmission, please call as soon as possible at 619.744.2200.

PAGE 06 * RCVD AT 5/16/2007 7:25:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/4 * DNIS:2733201 * CSID:6197442201 * DURATION (mm-ss):03-30

Attorney Docket No.: E3695-00025

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PCT Receiving Office Section (RO/US)

Application of:	Docket No. E3695-00025
Myolink LLC	Authorized Officer: Paul Urrutia
International Application Number:	
PCT/US2007/004200	
International Filing Date	
Filed: February 16, 2007	
For: PHARMACEUTICAL FORMULATIONS OF SYNPATHETIC AGONIST FOR THE TREATMENT OF CHRONIC MUSCLE PAIN	

VIA FACSIMILE

CERTIFICATE OF MAILING/FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this correspondence (and anything referred to as being transmitted herewith) is being facsimile transmitted to Mail Stop PCT, Commissioner for Patents (Fax No. 571-273-0459) on the date shown below.

Date: August 16, 2007

Maria E. Provencio

Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF SUZANNE L. BIGGS

I, Suzanne L. Biggs, do hereby declare:

1. I am an Attorney handling the above-identified International Application (PCT/US2007/004200) and I signed the Response to Invitation to Correct Defects attached as Exhibit A to the Petition for Reconsideration (submitted herewith).

2. This Application has an International Filing Date of 16 February 2007.

3. We received an Invitation to Correct Defects in the International Application mailed 20 April 2007 which set a Reply as due one (1) month from the mailing date.

4. On 16 May 2007, I submitted a Response to the Invitation to Correct Defects in International Application by facsimile with a Certificate of Mailing/Facsimile

Transmission Pursuant to 37 C.F.R. § 1.8 which I signed. A copy of this Response is attached as Exhibit A to the Petition.

5. The Response to Invitation to Correct Defects in International Application submitted 16 May 2007 directed that Deposit Account No. 04-1679 be charged for any requisite fees incurred in connection with this matter and was signed by me as an authorized signature.

6. The statement noted in paragraph 5 hereinabove was included so that if any fees were due for this application and such fees were not otherwise submitted, Deposit Account No. 04-1679 would be charged for those fees.

7. Upon information and belief, on or about July 23, 2007, our office received a Notification that International Application Considered to be Withdrawn with a 14 July 2007 mailing date.

8. The Notification that International Application Considered to be Withdrawn was brought to my attention and I contacted the Authorized Officer, Paul Urrutia by telephone regarding the Notification. I brought to Mr. Urrutia's attention that our Response to the Invitation to Correct Defects in International Application included an authorization signature and Deposit Account Number to charge Deposit Account No. 04-1674 for any requisite fees incurred in regard to this matter, namely the present International Application.

9. The Response to the Invitation to Correct Defects in International Application includes language which authorizes any fees in this application to be deducted from Deposit Account No. 04-1679 and an authorization signature for the change.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent resulting therefrom.

Dated: August 16, 2007

Suzanne L. Biggs
Attorney/Agent for Applicant
Reg. No. 30,158 (U.S)

PCT/US2007/004200 26.09.2007

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	8640
RECIPIENT ADDRESS	6197442201
DESTINATION ID	
ST. TIME	08/16 16:51
TIME USE	03'13
PGS.	15
RESULT	OK

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

20 JUL 2007

JOHN C. STRINGHAM
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT UTAH 84111

In re Application of
DHARMACON, INC.
PCT No.: PCT/US07/04223
Int. Filing Date: 16 February 2007
Priority Date: 17 February 2006
Atty. Docket No.: 16542.28.1.1a
For: COMPOSITIONS AND METHODS FOR INHIBITING GENE SILENCING BY RNA INTERFERENCE

: DECISION ON PETITION
:UNDER 37 CFR 1.10(c)

This is a decision on applicant's "Request for Correction of International Filing Date", treated as a petition under 37 CFR 1.10, filed in the United States Patent and Trademark Office (USPTO) on 25 June 2007. Applicant, in effect, requests that the USPTO accord a filing date of 16 February 2007 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/04223, which claimed a priority date of 17 February 2006.

On 25 May 2007, a Notification of the International Application Number and of the International Filing Date was mailed to applicant indicating that the International filing date of the application is 20 February 2007.

On 25 June 2007, applicant filed the present request, which included a copy of the Customer Receipt of the "Express Mail" mailing label Express Mail # EV701510199US. The mailing label was addressed to the "Mail Stop PCT, Commissioner for Patents, PO BOX 1450, Alexandria, VA 22313-1450". The "Date In" is "2/16/07" and the Customer Receipt bears a USPS barrel-stamp "FEB 16 2007".

DISCUSSION

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 Commissioner to accord the

correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition contains a copy of the "Express Mail" Mailing Label # EV7015101990US, which bears a USPS barrel stamp date of "FEB 16 2007". The transmittal letter having "Express Mail" mailing label Express Mail ## EV7015101990US thereon is contained in the application file. The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 16 February 2007. Specifically, the "Express Mail" label number appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application papers were deposited on 16 February 2007.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of **16 February 2007** is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 25 May 2007 is hereby **VACATED**. A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 16 February 2007.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

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

18 SEP 2007

Kenneth R. Allen
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of	:	
HEREKAR	:	
PCT No.: PCT/US07/04317	:	DECISION ON PETITION
Int. Filing Date: 15 February 2007	:	
Priority Date: 21 February 2006	:	UNDER 37 CFR 1.10(c)
Attorney Docket No.: 22090-3-1PC	:	
For: METHOD AND SYSTEM FOR ELASTO-MODULATION OF OCULAR TISSUE	:	

This decision is in response to applicant's correspondence filed in the United States Patent and Trademark Office (USPTO) on 15 June 2007. The paper is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 15 February 2007. No petition fee is due.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 21 February 2006.

The United States Receiving Office (US/RO) accorded the application an international filing date of 16 February 2007. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 15 May 2007.

On 15 June 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 15 February 2007 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 16 February 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has

accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 15 May 2007 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 15 February 2007 and corrected first page of the PCT request form are enclosed with this decision.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

Encl: Form RO/105 and Page one of PCT Request

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

13 SEP 2007

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

In re Application of :
PFIZER PRODUCTS INC., et al. : DECISION ON
PCT No.: PCT/US07/05176 :
Int. Filing Date: 28 February 2007 : PETITION
Priority Date: 28 February 2006 :
Attorney's Docket No.: 20378 : UNDER 37 CFR 1.181
For: Gene Predictors Of Response To Metastatic Colorectal Chemotherapy :

This decision is in response to applicant's "Response To Invitation," filed on 01 June 2007, which has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 February 2007, applicants filed international application PCT/US07/05176, claiming an earliest priority date of 28 February 2006.

On 25 May 2007, the United States Receiving Office (US/RO) mailed the following: Notification Concerning Payment of Fees (Form PCT/RO/102); Notification of the International Application Number and International Filing Date (Form PCT/RO/105) and, Invitation To Correct Defects In The International Application" (Form PCT/RO/106) ("Invitation"). Specifically, the Invitation indicated that page 26 of the Description was missing, thereby concluding that the Description in the instant application included only 36 pages.

On 01 June 2007, applicants filed the instant "Response To Invitation," requesting that the copy of page 26 of the Description accompanying the instant petition be accepted as having been originally filed on 28 February 2007. The petition was accompanied by, *inter alia*, a copy of a postcard receipt date-stamped 28 February 2007 by the USPTO.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that on 28 February 2007 applicants filed page 26 of the Description in the instant application. The proof is in the form of the copy of the postcard receipt for the above-identified application which bears a United States Patent and Trademark Office date stamp of 28 February 2007 and which itemizes, *inter alia*, thirty-seven (37) pages of specification. This postcard receipt also identified the above-mentioned attorney docket number and applicant.

Accordingly, it is appropriate, on the present record, to accept the copy of page 26 filed 28 February 2007 as having been originally filed in the RO/US on 28 February 2007.

In view of the instant decision, an additional fee of $12.00 will be charged to Deposit Account No. 19-1013 to cover the addition of an extra page to the instant application.

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208
Facsimile: (571) 273-0459

CC: International Bureau
PCT Receiving Office Section
34, chemin des Colombettes
1211 Geneva 20
Switzerland

Enclosure: page 26

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

17 JUL 2007

David H. Jaffer
Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
McLean, VA 22102

In re Application of :
VOBILE, INC. :
PCT No.: PCT/US07/05227 : DECISION ON PETITION
Int. Filing Date: 27 February 2007 :
Priority Date: 27 February 2006 : UNDER 37 CFR 1.10
Atty. Docket No.: 042118-01360166 :
For: SYSTEMS AND METHODS FOR PUBLISHING, :
SEARCHING, RETRIEVING, AND BINDING :
METADATA FOR A DIGITAL OBJECT :

This decision is in response to applicant's correspondence filed in the United States Patent and Trademark Office (USPTO) on 27 June 2007. The petition is being treated as a petition under 37 CFR 1.10(c) to correct the international filing date to 27 February 2007. No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 27 February 2006.

The United States Receiving Office (US/RO) accorded the application an international filing date of 28 February 2007. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 17 May 2007.

On 27 June 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 27 February 2007 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 28 February 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other

official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm database shows acceptance by the USPS on "San Diego, CA 92137 02/27/07 7:04pm." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 17 May 2007 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision, that is, for preparing and mailing of a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 27 February 2007.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
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CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

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

01 APR 2008

Robert K. Cerpa
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Application of :
THE BOARD OF TRUSTEES OF THE LELAND :
STANFORD JUNIOR UNIVERSITY : DECISION UNDER
PCT No.: PCT/US07/05375 : 37 CFR 1.10(c)
Int. Filing Date: 27 February 2007 :
Priority Date: 27 February 2006 :
Agent's File Reference: 578562001540 :
For: COMPOSITIONS AND METHODS FOR TRANSPORT OF MOLECULES WITH ENHANCED RELEASE PROPERTIES ACROSS BIOLOGICAL BARRIERS

This decision is in response to applicants' 03 March 2008 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US07/05375 be corrected from 28 February 2007 to 27 February 2007. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 11 June 2007), International Application No. PCT/US07/05375 was accorded a filing date of 28 February 2007 by the United States Receiving Office (RO/US).

On 03 March 2008, the present petition was filed requesting that International Application No. PCT/US07/05375 be accorded a filing date of 27 February 2007 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS

notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the original application papers reveals that "Express Mail" Label No. EV335359667US was placed on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(c)(2). The copy of the Customer Copy of "Express Mail" Label No. EV335359667US filed with the present petition indicates 27 February 2007 as the "Date-In". Furthermore, the "Track & Confirm" database of the USPS indicates that the date of deposit for the present international application is 27 February 2007. Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED.** The Form PCT/RO/105 mailed 11 June 2007 is hereby **VACATED.**

A corrected Form PCT/RO/105 indicating a 27 February 2007 international filing date accompanies this decision. A copy of this decision and a copy of the corrected first sheet of the PCT Request will be sent to the International Bureau.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BL:jf

(571) 272-3284

Enclosures: corrected Form PCT/RO/105 and corrected 1st page of PCT Request.

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34 chemin des Colombettes
1211 Geneve 20 (SUISSE)

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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14 SEP 2007

JUDITH U. KIM
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC DISTRICT OF COLUMBIA 20005

In re Application of
GURNEY et el.
PCT No.: PCT/US07/05443
Int. Filing Date: 31 October 2006
Priority Date: 31 October 2005
Atty. Docket No.: 2293.016PC02
For: COMPOSITIONS AND METHODS FOR DIAGNOSING AND TREATING CANCER

: DECISION ON PETITION
: UNDER 37 CFR 1.10(c)

This is a decision on applicant's "Petition Under 37 CFR 1.181", treated as a petition under 37 CFR 1.10, filed in the United States Patent and Trademark Office (USPTO) on 02 March 2007. Applicant requests according a filing date of 31 October 2006 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/05443, which claimed a priority date of 31 October 2005 and which designated the United States.

On 02 March 2007, applicant filed the present request, requesting that the International filing date of 31 October 2006. Subsequent to the filing of the petition, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) was mailed on 02 May 2007 indicating a filing date of 02 March 2007.

DISCUSSION

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 5, August 2006)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that the international application papers were originally filed on 31 October 2006 and provided a copy of the date-stamped postcard receipt.

The postcard identifies the application by title, applicant name and docket number. Among the items listed on the receipt is transmittal letter, PCT Request Form, Fee Calculation Sheet, Specification (57 sheets), Sequence Listing (2 sheets), Claims (4 sheets), Abstract (1

sheet) and Drawings (7 sheets) and Credit Card Payment (1 sheet). The postcard is stamped "OIPE OCT 31 2006." The evidence is sufficient to establish that the International application was received in the USPTO on 31 October 2006 and that the postcard receipt indicating a date of 31 October 2006 was mailed by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the international application was deposited with the USPTO on 31 October 2006. Applicant has now presented a copy of the papers originally filed on 31 October 2006 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is now sufficient to establish that the international application was received in the USPTO on 31 October 2006. Accordingly, the Office accepts the copy of the international application as a replacement for the missing original international application with a deposit date of 31 October 2006.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The international filing date for PCT/US07/05443 is 31 October 2006.

The Notification of the International Application Number and of the International Filing Date was mailed on 02 May 2007 is hereby **VACATED**. A new Notification of the International Application Number and of the International Filing Date is issued indicating a filing date of 31 October 2006.

The application will be forwarded to the United States Receiving Office for further processing.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: Form/RO/105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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26 SEP 2007

DAVID A. JAKOPIN
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA VIRGINIA 22102

In re Application of	:	
SOLOPOWER, Inc.	:	
PCT No.: PCT/US07/05740	:	DECISION
Int. Filing Date: 07 March 2007	:	
Priority Date: 13 March 2006	:	ON PETITION UNDER
Docket No.: 022904-0360317	:	
For: TECHNIQUE FOR PREPARING ...	:	37 CFR 1.10(c)
APPARATUS CORRESPONDING	:	
THERETO	:	

This decision is in response to applicant's "Request For Rectification of Obvious Errors," filed in the United States Patent and Trademark Office on 20 June 2007. It has been treated as a Petition Under 37 CFR 1.10(c).

BACKGROUND

Applicant filed international application PCT/US07/05740 via Express Mail.

On 17 May 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 08 March 2007.

On 20 June 2007, applicant submitted a petition to correct the international filing date of the application.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 07 March 2007. The mailing label lists the "date in" as 07 March 2007. Under 37 CFR 1.10(a), correspondence delivered to the Office by "Express Mail" will be considered filed 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." 37 CFR 1.10(a).

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes a true copy of the Express Mail mailing label and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. (1) The petition was promptly filed. (2) The Express Mail mailing label number was included with the application papers. (3) Applicant provided a photocopy of the Express Mail mailing label. Applicant claims that label is "clearly marked as 'March 7, 2007,'" but both the "date in" or the plug stamp from USPS are nearly illegible the copies submitted to the Office. However, the label has been cross-referenced with the USPS Track and Confirm database, that lists the package's acceptance as 07 March 2007.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 07 March 2007 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 17 May 2007, is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12 MAR 2008

David W. Osborne
THORPE, NORTH & WESTERN, LLP
P.O. Box 1219
Sandy UT 84091-1219

In re Application of :
HUMAGENE, INC. :
PCT No.: PCT/US2007/005845 :
Int. Filing Date: 06 March 2007 :
Priority Date: 06 March 2006 : **DECISION**
Attorney Docket No.: 02314-321 :
For: A METHOD FOR THE PREPARATION :
OF RECOMBINANT HUMAN :
THROMBIN AND FIBRINOGEN :

This decision is in response to the petition under 37 CFR 1.182 filed with the United States Receiving Office (RO/US) on 20 December 2007.

BACKGROUND

On 06 March 2007, applicant submitted the above-captioned international application which was accompanied by, *inter alia*, a sequence listing diskette.

On 13 September 2007, the International Bureau (IB) published the international application without the sequence listing.

On 20 December 2007, applicant submitted a petition under 37 CFR 1.182 accompanied by three additional sequence listing diskettes and authorization to charge any required fee to Deposit Account No. 20-0100.

On 10 March 2008, at the request of the undersigned, applicant submitted via facsimile a statement under 37 CFR 1.821(f).

DISCUSSION

In the subject petition, applicant states that the sequence listing for this application was incorrectly filed as "three additional disk copies of the sequence list were inadvertently omitted at filing as well as the sequence ID fee for filing a sequence listing." Applicant included three additional disk copies of the sequence list and authorized that any required fee be charged to Deposit Account No. 20-0100.

A review of the international application shows that the Request indicated that the international application was accompanied by a sequence listing in electronic form

identified as "CD-R" under Box No. IX of the Request. Moreover, Box No. IX(b)(i) indicating a sequence listing in electronic form pursuant to section 801(a)(I) of the Administrative Instructions was part of the international application. In addition, applicant Box No. IX(9)(ii) and IX(10)(ii) of the Request were also checked. However, applicant failed to include fees to pay for the sequence listing under section 801(a)(ii) in the PCT Fee Calculation Sheet.

It is clear that applicant intended that the electronic sequence listing be considered part of the international application despite the fact that applicant did not include the required number of diskettes and required fees.

The $400.00 petition fee has been charged as authorized. The sequence listing fees of $4,800.00 have been charged to Deposit Account No. 20-0100 as authorized. Applicant also submitted a statement under 37 CFR 1.821 affirming that the diskettes filed 20 December 2007 are the same as originally filed and no new matter is introduced.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is hereby **GRANTED**.

The sequence listing diskettes have been accepted and shall form part of the international application. This application is being forwarded to the RO/US for further processing.

A copy of the sequence listing will be forwarded to the IB along with a copy of this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

18 AUG 2008

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MARK J. DANIELSON
PILLSBURY WINTHROP SHAW PITTMAN LLP
PO BOX 10500
MCLEAN VA 22102

In re Application of	:	
FATDOOR, INC.	:	DECISION
PCT No.: PCT/US2007/005999	:	
Int. Filing Date: 08 March 2007	:	
Priority Date: None	:	
Attorney's Docket No.: 027733-0366916	:	
For: WIKI GROUPS OF AN ONLINE COMMUNITY	:	

This decision is in response to applicant's submission filed on 17 April 2008, which has properly been treated as a petition under 37 CFR 1.10(c).

BACKGROUND

On 24 May 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating an international filing date of 08 March 2007.

On 17 April 2008, applicant submitted the instant petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label #EQ633020429US.

DISCUSSION

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.

Applicant has satisfied items (2) and (3). Specifically, the "Express Mail" label number ("EQ633020429US") appears on the transmittal letter (Form PTO-1382), which also refers to, *inter alia*, an international application and lists the above-identified applicant and title. The "Date Accepted" on the Customer Copy of the Express Mail mailing label shows a date of 07 March 2007.

However, item (1) has not been satisfied. Item (1) states the petition must be filed promptly after the person becomes aware that the Office has accorded a filing date other than the USPS deposit date. As noted above, the indication that the Office had accorded the application an international filing date of 08 March 2007 was mailed on 24 May 2007. The instant petition was filed almost 11 months later. Petitioner has provided no indication as to when anyone became aware of the discrepancy.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(c) requesting that the application papers be accorded an international filing date of 07 March 2007 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
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UNITED STATES PATENT AND TRADEMARK OFFICE

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27 JUL 2007

Narinder S. Banait
FENWICK & WEST, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of :
RELIANT TECHNOLOGIES, INC. :
PCT No.: PCT/US07/06001 : DECISION UNDER
Int. Filing Date: 07 March 2007 : 37 CFR 1.10(c)
Priority Date: 07 March 2006 :
Agent's File Reference: 11294 PCT :
For: TREATMENT OF ALOPECIA BY :
MICROPORE DELIVERY OF STEM
CELLS

This is in response to applicants' 05 July 2007 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US07/06001 be corrected from 08 March 2007 to 07 March 2007. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 12 May 2007), International Application No. PCT/US07/06001 was accorded a filing date of 08 March 2007 by the United States Receiving Office (RO/US).

On 05 July 2007, the present petition was filed requesting that International Application No. PCT/US07/06001 be accorded a filing date of 07 March 2007 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10(c)(1). "Express Mail" Label No. EV442663443US was indicated on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(c)(2). The copy of "Express Mail" Label No. EV442663443US filed with the present petition indicates that the "Date In" is 07 March 2007. 37 CFR 1.10(c)(3). Additionally, the "Track & Confirm" database of the USPS indicates that the date of deposit is 07 March 2007. Accordingly, correction of the international filing date to 07 March 2007 is appropriate.

CONCLUSION

For the above reasons, the request to correct the filing date is **GRANTED**. The Form PCT/RO/105 mailed 27 April 2007 is hereby **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating an 07 March 2007 international filing date are being sent to the International Bureau.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BM:jf

(571)272-3284

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, Chemin des Colombettes
1211 Geneve 20
SUISSE

Enclosures: a copy of corrected Form PCT/RO/105 and a copy of the corrected copy of first page of the PCT Request.

2 3 SEP 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Gary J. Edwards
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 New York Ave., N.W.
Washington, DC 20001-4413

In re Application of METROTECH CORPORATION PCT No.: PCT/US2007/006045 Int. Filing Date: 09 March 2007 Priority Date: 10 March 2006 Docket No.: 9131.32-304 For: LONG LINE MONITORING AND LOCATING SYSTEM	**DECISION** **ON PETITION UNDER** **37 CFR 1.10(c)**

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 25 August 2008. These papers are treated as a petition under 37 CFR 1.10(c).

BACKGROUND

Applicant filed PCT/US2007/006045 using Express Mail service. The papers were deemed as received by the RO/US on 08 March 2007.

On 05 June 2007, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date of the subject application is 08 March 2007.

On 25 August 2008, applicant filed the above-captioned petition.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be amended to 09 March 2007. Any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail"

mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the subject application reveals that all the requirements of 37 CFR 1.10(c) are satisfied. The Express Mail label number is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 09 March 2007. Applicant included a copy of the Customer Copy of Express Mail label No. EV747262215US which has a "Date Accepted" of "03 09 07" and is stamped by the USPS on "MAR 9 2007." Moreover, a check of USPS Track/Confirm records verify that the papers were deposited on 09 March 2007 at 4:33 p.m. in Menlo Park, Ca. These records meet the requirements of item (3) of 37 CFR 1.10(c) above.

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 mailed 05 June 2007 is hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an international filing date of **09 March 2007** will be mailed with this decision.

This application is being returned to the RO/US for further processing and for the forwarding of a copy of the decision to the International Bureau.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

26 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BO-IN LIN
13445 Mandoli Drive
Los Altos Hills, CA 94022

In re Application of
ALPHA & OMEGA SEMICONDUCTOR, LTD.
PCT No.: PCT/US2007/006165
Int. Filing Date: 10 March 2007
Priority Date: 10 March 2006
Docket No.: AOS-0604
For: SHIELDED GATE TRENCH(SGT) MOSFET CELLS IMPLEMENTED WITH A SCHOTTK SOURCE CONTACT

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 15 July 2008 which are treated as a petition under 37 CFR 1.10(c).

BACKGROUND

Applicant filed PCT/US2007/006165 using Express Mail service. The papers were deemed as received by the RO/US on 12 March 2007.

On 09 May 2008, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date of the subject application is 12 March 2007.

On 15 July 2008, applicant filed the above-captioned petition.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be amended to 10 March 2007. Any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail"

mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the subject application reveals that all the requirements of 37 CFR 1.10(c) have been satisfied. The Express Mail label number is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 10 March 2007. Applicant included a copy of the Track & Confirm records for Express Mail label No. EB135465308US which show that the documents were deposited with the USPS in San Francisco, CA on 10 March 2007 at 11:54 am. These records are considered official USPS records and meet the requirements of item (3) of 37 CFR 1.10(c) above. As such, it is clear that the proper international filing date should be 10 March 2007.

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 mailed 09 May 2008 is hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an international filing date of **10 March 2007** will be mailed with this decision.

This application is being returned to the RO/US for further processing and for the forwarding of a copy of the decision to the International Bureau.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

- 2 MAR 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

Bo-In Lin
13445 Mandoli Drive
Los Altos, CA 94022

In re Application of :
ALPHA & OMEGA SEMICONDUCTORS, LTD. :
PCT No.: PCT/US2007/006165 :
Int. Filing Date: 12 March 2007 :
Priority Date: 10 March 2006 :
Docket No.: AOS-0604 : **DECISION**
For: SHIELDED GATE TRENCH(SGT) :
MOSFET CELLS IMPLEMENTED :
WITH A SCHOTTK SOURCE :
CONTACT :

This decision is in response to the papers filed in the United States Receiving Office (RO/US) on 18 November 2009.

BACKGROUND

On 12 March 2007, applicant filed international application PCT/US2007/006165 claiming priority to U.S. application No. 11/373,024 filed 10 March 2006. The specification contained eight sheets.

On 18 November 2009, applicant submitted a petition to add five sheets to the specification based upon an "Incorporation by Reference" of a prior U.S. patent application, No. 11/373,024.

DISCUSSION

Applicant requests that the RO/US allow five pages missing in the specification be incorporated by reference from the priority claim to the subject application.

Incorporation by reference of part of a prior filed application is only allowed in the PCT pursuant to PCT Rule 20.6 (effective 01 April 2007).

In this case, the PCT application was filed prior to the effective date of the new rule. Moreover, applicant's request was filed after the applicable time limit of PCT Rule 20.6 (*See* PCT Rule 20.7). In addition, the PCT Request does not contain a statement required by PCT Rule 4.18.

CONCLUSION

For the reason discussed above, applicant's petition to incorporate by reference is hereby **DISMISSED** without prejudice.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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27 AUG 2007

James V. Harmon
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220 South Sixth Street
Minneapolis, MN 55402

In re Application of
MICHIGAN TECHNOLOGICAL UNIVERSITY
PCT No.: PCT/US2007/006175
Int. Filing Date: 12 March 2007
Priority Date: 13 March 2006
Attorney's Docket No.: 3071
For: PRODUCTION OF IRON USING ENVIRONMENTALLY-BENIGN RENEWABLE OR RECYCLED REDUCING AGENT

DECISION

This decision is in response to applicant's "Petition for Refund of an Overpayment of $700" filed on 09 July 2007 which is hereby **REFUSED**, for the following reason.

Applicant claims that the above-captioned international application is authorized the reduced search fee of $300.00 due to a corresponding prior United States National application filed under 35 U.S.C. 111(a). 37 CFR 1.445, *International application filing, processing and search fees*, states in part:

> (a) The following fees and charges for international applications are established by the Director under the authority of 35 U.S.C. 376:
>
> (2) A search fee (see 35 U.S.C. 361(d)and PCT Rule 16):
>
> (i) If a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under § 1.16(a) has been filed and the corresponding prior United States National application is identified by application number, if known, **or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application** . . . $300.00

In this case, the U.S. application number was not known at the time of filing the Request. Instead, applicant provided the filing date as requested. However, applicant failed to submit the title and applicant as required by 37 CFR 1.445(a)(2)(i).

Accordingly, no refund of a portion of the search fee is possible.

PCT/US2007/006175

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
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Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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17 APR 2007

Cheryl L. Gastineau
Reed Smith LLP
P.O. Box 488
Pittsburgh, PA 15230-0488

In re Application of
RIC INVESTMENTS, LLC
PCT No.: PCT/US07/06670
International Filing Date: **06 December 2006**
Attorney Docket No.: 06-304-WO
For: FULL FACE RESPIRATORY MASK WITH INTEGRATED NASAL INTERFACE

DECISION ON PETITION

This decision is in response to applicant's "Petition to Accord International Application Serial Number and Filing Date under 37 CFR 1.10" filed 16 March 2007, which is being treated as a petition under 37 CFR 1.110(e) to reconstruct the international application and accord an international filing date of 06 December 2006. No petition fee is required.

BACKGROUND

On 06 December 2006, applicant allegedly submitted a PCT application which included: 4 page Request (PCT/RO/101); 24 pages of descriptions; 3 pages of claims; 1 page abstract; 44 pages of drawings; a power of attorney; and a return receipt postcard.

On 16 March 2007, applicant filed "Petition to Accord International Application Serial Number and Filing Date under 37 CFR 1.10" which included a copy of the international application filed on 06 December 2006. (These papers were assigned serial number PCT/US07/06670.)

DISCUSSION

The application file does not contain the materials purportedly filed by United States Express Mail on 06 December 2006. In order to confirm the 06 December 2006 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.10(e), which states the following:

> 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 Commissioner 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 "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 Commissioner, 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.

Applicant has satisfied items (1) through (4). The evidence of record provided in accordance with 37 CFR 1.10(e) is sufficient to establish with reasonable certainty that the international application was deposited with the United States Postal Service as an "Express Mail" mailing on 06 December 2006. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 06 December 2006. Accordingly, in view of all of the facts particular to this application, the granting of the relief requested is warranted.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.10(e) requesting that the USPTO accord an international filing date of 06 December 2006 to the international application is **GRANTED**.

This application is being returned to the US Receiving Office to processing in accordance with this decision, that is, for: (1) according the international application a date of receipt of 06 December 2006; (2) forwarding notice of the 06 December 2006

international filing date to the International Bureau; and (3); forwarding a copy of this decision to the International Bureau.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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John D. Pirnot
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In re Application of :
TOMASEL :
PCT No.: PCT/US07/ 06720 : DECISION ON PETITION
Receipt Date: 16 February 2007 : UNDER 37 CFR 1.182
Priority Date: 16 February 2006 :
Attorney Docket No.: AE2004-044PCT/ADEN008 :
For: SYSTEM AND METHOD FOR :
DELIVERING VAPOR

This decision is in response to applicant's "Petition Under 37 CFR 1.182 " filed 07 March 2007. As authorized, the $400 petition fee will be charged to Deposit Account no. 50-1539.

BACKGROUND

On 16 February 2007, applicant submitted (via EFS-Web): a PCT application which included: 4 page Request (PCT/RO/101); 12 pages of descriptions; 4 pages of claims; 1 page abstract; 2 pages of drawings; a fee calculation sheet and a general power of attorney. Practitioner did not select the radio button for 'international application for filing in the US Receiving Office' and the application papers were treated as follow-on papers to the priority application number 11/355,617.

On 07 March 2007, applicant filed the present petition under 37 CFR 1.182 requesting that the papers filed 16 February 2007 in U.S. patent application no. 11/355,617 be converted to an international application with a filing date of 16 February 2007. The submission was assigned PCT/US07/06720.

DISCUSSION

Upon review of the application files, it is concluded that the papers filed 16 February 2007 were incorrectly processed as follow-on papers to the priority application number 11/355,617 due to practitioner's failure to select 'international application for filing in the US Receiving Office' radio button. Practitioner states in the present petition that "Through inadvertent error, "Utility" patent was selected under 'Type of Application' instead of 'International Application for filing in the US Receiving Office'." The papers filed on 16 February 2007 have been placed in application number PCT/US07/06720 and will be accorded an international filing date of 16 February 2007.

Applicant's request that the 4 page Request (PCT/RO/101); 12 pages of descriptions; 4 pages of claims; 1 page abstract; 2 pages of drawings; a fee calculation sheet and a

general power of attorney filed 16 February 2007 be converted to a PCT application and accorded an international filing date of 16 February 2007 is granted.

CONCLUSION

The petition under 37 CFR 1.182 is GRANTED and the international application will be accorded an international filing date of 16 February 2007.

The application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) according the application papers an international filing date of **16 February 2007**; and (2) forwarding notice of the 16 February 2007 international filing date to the International Bureau.

Applicant should use international application number PCT/US07/06720 in all future communications with the United States Patent and Trademark Office.

Derek A. Putonen
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UNITED STATES PATENT AND TRADEMARK OFFICE

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John D. Pirnot
Advanced Energy Industries, Inc.
1625 Sharp Point Drive
Fort Collins, CO 80525

In re Application of :
TOMASEL :
PCT No.: PCT/US07/ 06720 : DECISION ON PETITION
Receipt Date: 16 February 2007 : UNDER 37 CFR 1.182
Priority Date: 16 February 2006 :
Attorney Docket No.: AE2004-044PCT/ADEN008 :
For: SYSTEM AND METHOD FOR :
DELIVERING VAPOR

This decision is in response to applicant's "Petition Under 37 CFR 1.182 " filed 07 March 2007. As authorized, the $400 petition fee will be charged to Deposit Account no. 50-1539.

BACKGROUND

On 16 February 2007, applicant submitted (via EFS-Web): a PCT application which included: 4 page Request (PCT/RO/101); 12 pages of descriptions; 4 pages of claims; 1 page abstract; 2 pages of drawings; a fee calculation sheet and a general power of attorney. Practitioner did not select the radio button for 'international application for filing in the US Receiving Office' and the application papers were treated as follow-on papers to the priority application number 11/355,617.

On 07 March 2007, applicant filed the present petition under 37 CFR 1.182 requesting that the papers filed 16 February 2007 in U.S. patent application no. 11/355,617 be converted to an international application with a filing date of 16 February 2007. The submission was assigned PCT/US07/06720.

DISCUSSION

Upon review of the application files, it is concluded that the papers filed 16 February 2007 were incorrectly processed as follow-on papers to the priority application number 11/355,617 due to practitioner's failure to select 'international application for filing in the US Receiving Office' radio button. Practitioner states in the present petition that "Through inadvertent error, "Utility" patent was selected under 'Type of Application' instead of 'International Application for filing in the US Receiving Office'." The papers filed on 16 February 2007 have been placed in application number PCT/US07/06720 and will be accorded an international filing date of 16 February 2007.

Applicant's request that the 4 page Request (PCT/RO/101); 12 pages of descriptions; 4 pages of claims; 1 page abstract; 2 pages of drawings; a fee calculation sheet and a

general power of attorney filed 16 February 2007 be converted to a PCT application and accorded an international filing date of 16 February 2007 is granted.

CONCLUSION

The petition under 37 CFR 1.182 is GRANTED and the international application will be accorded an international filing date of 16 February 2007.

The application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) according the application papers an international filing date of **16 February 2007**; and (2) forwarding notice of the 16 February 2007 international filing date to the International Bureau.

Applicant should use international application number PCT/US07/06720 in all future communications with the United States Patent and Trademark Office.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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15 AUG 2007

Glenn P. Ladwig
Saliwanchik, Lloyd & Saliwanchik
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Gainesville, Florida 32614-2950

In re Application of: UNIVERSITY OF FLORIDA RESEARCH FOUNDATION, INC.
PCT Application No.: PCT/US2007/006722
International Filing Date: 16 March 2007
Priority Date: 16 March 2006
Attorney Docket No.: UF-490XC1
For: HUMAN LIVER CANCER CELL LINE

DECISION
UNDER
37 CFR 1.181

This decision is responsive to the Response to Notification of Non-Inclusion of Drawings filed 18 July 2007, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 29 June 2007 a Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107) was mailed.

A petition under 37 CFR 1.181 was received 18 July 2007, which included a copy of a postcard receipt for the international application filed 16 March 2007. The postcard receipt indicates 4 sheets of drawings and identifies the applicant, express mail number, attorney docket number, international application number, and date of receipt.

DISCUSSION

Petitioner asserts that four sheets of drawings were submitted with the international application papers, but the Office records indicate receipt of only three sheets of drawings with the international application papers.

Where there is a dispute as to the contents of correspondence submitted to the Office and the records of the Office 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 (see MPEP § 513(VII)).

While the copy of a postcard receipt may serve as *prima facie* evidence of receipt of a correspondence, the copy must be accompanied by a statement, which establishes that the copy of the postcard receipt is a true copy of the returned postcard receipt.

Further, petitioner has failed to provide a copy of the correspondence originally submitted, in this case the purported four sheets of drawings submitted 16 March 2007, and a statement, which establishes that the copy of the correspondence is a true copy of the originally mailed correspondence.

CONCLUSION

The petition is insufficient to establish that the purported four sheets of drawings were submitted on 16 March 2007. Therefore, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may not be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Boris Milef
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UNITED STATES PATENT AND TRADEMARK OFFICE

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0 1 OCT 2007

Glenn P. Ladwig
Saliwanchik, Lloyd & Saliwanchik
P.O. Box 142950
Gainesville, Florida 32614-2950

In re Application of: UNIVERSITY OF FLORIDA RESEARCH FOUNDATION, INC.
PCT Application No.: PCT/US2007/006722
International Filing Date: 16 March 2007
Priority Date: 16 March 2006
Attorney Docket No.: UF-490XC1
For: HUMAN LIVER CANCER CELL LINE

DECISION
UNDER
37 CFR 1.181

This decision is responsive to the Renewed Petition under 37 CFR 1.181 filed 14 September 2007. No petition fee is required.

BACKGROUND

On 29 June 2007 a Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107) was mailed.

A petition under 37 CFR 1.181 was received 18 July 2007, which included a copy of a postcard receipt for the international application filed 16 March 2007. The postcard receipt indicates four drawing sheets and identifies the applicant, express mail number, attorney docket number, international application number, and date of receipt.

The petition was dismissed without prejudice in a decision mailed 15 August 2007.

A renewed petition under 37 CFR 1.181 was received 14 September 2007, which included a copy of the postcard receipt for the international application filed 16 March 2007 and a copy of four drawing sheets (1/4 - 4/4). The petition includes a statement that the copy of the postcard receipt is a true copy and a statement that the copy of the drawing sheets (1/4 – 4/4), containing Figures 1-5, is a true copy.

DISCUSSION

Petitioner asserts that four sheets of drawings were submitted with the international application papers, but the Office records indicate receipt of only three sheets of drawings with the international application papers.

Where there is a dispute as to the contents of correspondence submitted to the Office and the records of the Office 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 (see MPEP § 513(VII)).

The copy of the postcard receipt, accompanied by a statement that establishes that the copy of the postcard receipt is a true copy of the returned postcard receipt, serves as *prima facie* evidence of receipt of four drawing sheets.

Further, petitioner provided a copy of four drawing sheets (1/4 – 4/4), accompanied by a statement that establishes that the copy of the four drawing sheets (1/4 – 4/4) is a true copy of the four drawing sheets originally submitted 16 March 2007.

CONCLUSION

The petition is sufficient to establish that the four drawing sheets (1/4 – 4/4) were submitted on 16 March 2007. Therefore, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107) mailed 29 June 2007 is hereby VACATED.

The application is being forwarded to the United States Receiving Office for processing in accordance with this decision.

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Bryan Lin
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UNITED STATES PATENT AND TRADEMARK OFFICE

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23 AUG 2007

CHRISTOPHER R. BALZAN
674 COUNTY SQUARE DRIVE
SUITE 105
VENTURA CA CALIFORNIA 93003

In re Application of	:	
APPLIED MATERIALS, Inc.	:	DECISION
PCT No.: PCT/US07/07010	:	
Int. Filing Date: 20 March 2007	:	ON PETITION UNDER
Priority Date: 20 March 2006	:	
Docket No.: 10867 PCT	:	37 CFR 1.10(c)
For: ORGANIC BARC ETCH ... INTEGRATED CIRCUITS	:	

This decision is in response to applicant's Petition Under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office on 21 June 2007.

BACKGROUND

Applicant filed international application PCT/US07/07010 via Express Mail.

On 04 June 2006, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 21 March 2007.

On 21 June 2007, applicant submitted a petition to correct the international filing date of the application.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 20 March 2007. The mailing label lists the "date in" as 20 March 2007. Under 37 CFR 1.10(a), correspondence delivered to the Office by "Express Mail" will be considered filed 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." 37 CFR 1.10(a).

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes a true copy of the Express Mail mailing label and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. (1) The petition was promptly filed. (2) The Express Mail mailing label number was included with the application papers. (3) Applicant provided a photocopy of the Express Mail mailing label.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 20 March 2007 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 04 June 2007, is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

UNITED STATES PATENT AND TRADEMARK OFFICE

17 SEP 2007

Commissioner for Patents
United States Patent and Trademark Office
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RADER, FISHMAN & GRAUER PLLC
RIVER PARK CORPORATE CENTER ONE
10653 SOUTH RIVER FRONT PARKWAY
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SOUTH JORDAN, UTAH 84095

In re Application of	:	
ALPHASPINE, INC. et al.	:	
PCT No.: PCT/US07/07296	:	DECISION ON
Int. Filing Date: 22 March 2007	:	
Priority Date: 22 March 2006	:	PETITION UNDER
Attorney's Docket No.: 40359-0125	:	
For: Rotolock Cervical Plate Locking Mechanism	:	37 CFR 1.10(c)

This decision is in response to applicant's "Request For Corrected Filing Date," filed 05 July 2007, which is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 22 March 2007 to the above-identified application.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 23 March 2007 to the above-identified application.

On 26 June 2007, the United States Receiving Office (RO/US) mailed the following: a Notification Concerning Payment of Fees (Form PCT/RO/102); a Notification of the International Application Number and International Filing Date (Form PCT/RO/105) and; an Invitation to Correct Priority Claim (Form PCT/RO/110).

On 05 July 2007, applicants filed the present petition including, *inter alia*, a copy of the Customer Receipt of the United States Postal Service (USPS) "Express Mail" label showing Express Mail label number "EV 895433071 US" and a USPS date stamp of 22 March 2007.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" mailing on 22 March 2007. Specifically, the Customer receipt of the USPS "Express Mail" label shows a USPS date stamp of 22 March 2007 and the "Express Mail" label number ("EV 895433071 US") appears on the Transmittal Letter, received by the United States Patent and Trademark Office on 23 March 2007.

Therefore, the indication of the "Express Mail" label number appearing on the Transmittal Letter ties the Customer receipt of the USPS "Express Mail" label and the Transmittal Letter together, such that it is clear that the international application was deposited on 22 March 2007.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 22 March 2007 is **GRANTED**.

The Notification of the International Application and of the International Filing Date (Form PCT/RO/105) and, the Invitation To Correct Priority Claim (Form PCT/RO/110), mailed 26 June 2007, are hereby **VACATED**.

This application is being forwarded to the United States Receiving Office for further processing. A corrected PCT/RO/105 and front page of the Request will be mailed to the International Bureau.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208
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CC:
Attachments:

Corrected PCT/RO/105
Corrected front page of Request Form PCT/RO/101

International Bureau
PCT Receiving Office Section
34, chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Bryan G. Pratt
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, UT 84095

In re Application of:	:	
ALPHASPINE, Inc. et al.	:	DECISION
PCT Application No.: PCT/US2007/007306	:	
Int. Filing Date: 22 March 2007	:	UNDER
Priority Date: 22 March 2006	:	
Atty Docket No.: 40359-0121	:	
For: LOW TOP BONE FIXATION SYSTEM AND METHOD FOR USING THE SAME	:	37 CFR § 1.10 (c)
	:	

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING DATE" filed 06 June 2007, which has been treated as a petition under 37 CFR § 1.10(c). No petition fee is required.

BACKGROUND

As indicated on the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed on 31 May 2007, the present application was accorded an international filing date of 23 March 2007 by the United States Receiving Office (RO/US).

On 06 June 2007, applicant filed the present petition requesting the international filing date be corrected to 22 March 2007. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 895433099US.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be corrected to 22 March 2007.

Any correspondence received by the United States Patent and Trademark Office ('Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 present petition was filed promptly as required under 37 CFR § 1.10(c)(1). The Transmittal Letter (Form PTO-1382) identified the "Express Mail" label number. The "Express Mail" mailing label bears a USPS date stamp of 22 March 2007. Accordingly, pursuant to 37 CFR § 1.10(c), the international filing date is appropriately corrected 22 March 2007.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 22 March 2007 is **GRANTED**.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 22 March 2007 will be mailed with this decision. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 31 May 2007 is hereby **VACATED**.

The application is being forwarded to the RO/US for processing in accordance with this decision.

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PCT Special Programs Examiner
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Fax: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Notification of International Application Number And Of The International Filing Date (Form PCT/RO/105)

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

0 5 FEB 2008

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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WILLIAM E. JOHNSON
THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON, TX 77059

In re Application of	:	
NATH, Rahul K.	:	
PCT No.: PCT/US2007/007380	:	DECISION ON
Int. Filing Date: 21 March 2007	:	
Priority Date: 21 March 2006	:	PETITION
Docket No.: NATH-004/PCT	:	
For: TREATMENT OF INTERNAL ROTATION DEFORMITY IN CHILDREN CAUSED BY AN INJURY TO THE BRACHIAL PLEXUS	:	UNDER 37 CFR 1.181

This decision is in response to applicant's petition filed with the United States Patent and Trademark Office on 08 November 2007.

On 10 August 2007, the Office mailed Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133), indicating a balance of $2229 was due.

On 03 October 2007, applicants paid the outstanding balance.

On 10 October 2007, the Office mailed Notification That International Application Considered To Be Withdrawn (Form PCT/RO/117) indicating that the fees had not yet been paid and as such, the international application was considered to be withdrawn.

On 08 November 2007, applicants filed this petition to vacate the Form PCT/RO/117.

As indicated above, the United States Receiving Office was in possession of the fees before the mailing of the Form PCT/RO/117. As such, it issued in error and is hereby **VACATED**.

For the reasons discussed above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

01 JAN 2009

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

LAURENCE WEINBERGER
429 EXTON COMMONS
EXTON, PA 19341

In re Application of: CRAMER, Richard D.
PCT Application No.: PCT/US2007/007491
International Filing Date: 26 March 2007
Priority Date: 24 March 2006
Attorney Docket No.:
For: FORWARD SYNTHETIC SYNTHON GENERATION AND ITS USE TO IDENTIFY MOLECULES SIMILAR IN 3 DIMENSIONAL SHAPE TO PHARMACEUTICAL LEAD COMPOUNDS

DECISION ON PETITION

This decision is responsive to the communication filed 27 October 2008 (27.10.2008), which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

Petitioner provided a copy of a Notification of Transmittal (Form PCT/ISA/220), International Search Report (Form PCT/ISA/210), and Written Opinion of the International Searching Authority (Form PCT/ISA/237), which were mailed to the above address on 29 February 2008 (29.02.2008). Petitioner stated that the international application number indicated on the forms was incorrect and requested that the forms be revised to reflect the correct international application number.

DISCUSSION

In the present international application, the International Searching Authority of the United States (ISA/US) mailed a Notification of Transmittal (form PCT/ISA/210), International Search Report (Form PCT/ISA/210), and Written Opinion of the International Searching Authority (Form PCT/ISA/237) on 06 October 2008 (06.10.2008), which indicated the correct international application number. A courtesy copy of each form is attached hereto.

CONCLUSION

For the above reasons, the petition is DISMISSED AS MOOT.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Tamara Graysay
PCT Special Program Examiner
Office of PCT Legal Administration
(571) 272-6728

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Enclosures: Notification of Transmittal (Form PCT/ISA/220) mailed 06 October 2008
International Search Report (Form PCT/ISA/210) mailed 06 October 2008
Written Opinion of the ISA (Form PCT/ISA/237) mailed 06 October 2008

Copy to: THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

UNITED STATES PATENT AND TRADEMARK OFFICE

02 JAN 2009

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

LAURENCE WEINBERGER
429 EXTON COMMONS
EXTON, PA 19341

In re Application of: CRAMER, Richard D.
PCT Application No.: PCT/US2007/007491
International Filing Date: 26 March 2007
Priority Date: 24 March 2006
Attorney Docket No.:
For: FORWARD SYNTHETIC SYNTHON GENERATION AND ITS USE TO IDENTIFY MOLECULES SIMILAR IN 3 DIMENSIONAL SHAPE TO PHARMACEUTICAL LEAD COMPOUNDS

DECISION ON PETITION

This decision is responsive to the communication filed 27 October 2008 (27.10.2008), which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

Petitioner provided a copy of a Notification of Transmittal (Form PCT/ISA/220), International Search Report (Form PCT/ISA/210), and Written Opinion of the International Searching Authority (Form PCT/ISA/237), which were mailed to the above address on 29 February 2008 (29.02.2008). Petitioner stated that the international application number indicated on the forms was incorrect and requested that the forms be revised to reflect the correct international application number.

DISCUSSION

In the present international application, the International Searching Authority of the United States (ISA/US) mailed a Notification of Transmittal (form PCT/ISA/210), International Search Report (Form PCT/ISA/210), and Written Opinion of the International Searching Authority (Form PCT/ISA/237) on 06 October 2008 (06.10.2008), which indicated the correct international application number. A courtesy copy of each form is attached hereto.

CONCLUSION

For the above reasons, the petition is DISMISSED AS MOOT.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Tamara Graysay
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Boris Milef
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Office of PCT Legal Administration

Enclosures: Notification of Transmittal (Form PCT/ISA/220) mailed 06 October 2008
International Search Report (Form PCT/ISA/210) mailed 06 October 2008
Written Opinion of the ISA (Form PCT/ISA/237) mailed 06 October 2008

Copy to: THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

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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13 SEP 2007

Timothy J. Lubecki
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New Haven, CT 06510-2802

In re Application of
RTP CONTROLS
PCT No.: PCT/US07/07537
Int. Filing Date: 26 March 2007
Priority Date: 24 March 2006
Atty. Docket No.: 06-229-WO
For: METHOD AND APPARATUS FOR CONTROLLING POWER CONSUMPTION

DECISION ON PETITION

UNDER 37 CFR 1.10(c)

This decision is in response to applicant's "PETITION UNDER 37 CFR §1.182 TO CORRECT FILING DATE IN THE INTERNATIONAL APPLICATION" filed 24 July 2007 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10 (c) to correct the international filing date. No petition fee is required.

BACKGROUND

On 26 March 2007, applicant filed a PCT Request with the United States Receiving Office (RO/US) through use of Express Mail from the United States Postal Service. The Request claimed priority to an application filed in the United States on 24 March 2006.

On 04 June 2007, applicant was mailed a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating that the international filing date was 27 March 2007 and an "Invitation to Correct Priority Claim" (Form PCT/RO/110) indicating that the listed priority item fell outside of one year from the international filing date.

On 24 July 2007, applicant filed the present petition seeking an international filing date of 26 March 2007 and restoration of the priority claim.

DISCUSSION

37 CFR 1.10(c) states that an applicant filing correspondence under 37 CFR 1.10 which is received by the USPTO who can show that there is a discrepancy between the "Date-in" date on the Express Mail label and the date accorded by the USPTO may petition the Director to accord a filing date as of the "Date-in" on the mailing label 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 (United States Postal Service) 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.

Applicant has satisfied all three items above and it is therefore proper to grant applicant's petition. In addition, a review of the USPS track and confirm database shows acceptance by the USPS on "03/26/07." Thus, it is proper to grant applicant's petition at this time.

Regarding the priority claim of 24 March 2006, as stated in the present petition; 24 March 2007 was a Saturday, thus pursuant to PCT Rule 80.5 applicant had until the next business day to file the international application while still retaining the priority claim of 24 March 2006. The next business day was Monday, 26 March 2007; thus the priority claim is valid.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 04 June 2007 are hereby **VACATED**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing of the international application, including the preparation and mailing of a new "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating that the international filing date is **26 March 2007**.

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cc:
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CH-1211 Geneva 20, Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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13 SEP 2007

JONATHAN M. LINDSAY
CROWELL & MORING LLP
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WASHINGTON DC 20044-4300

In re Application of:
SONY CORPORATION
PCT No.: PCT/US2007/008273
International Filing Date: 28 March 2007
Priority Date: 28 March 2006
Atty Docket No.: 101162.57163WO
For: SYSTEM AND METHOD FOR IMPROVING RADIO FREQUENCY SIGNAL RECEPTION

DECISION ON PETITION
(37 CFR 1.182)

This decision is issued in response to the "Petition Under 37 CFR 1.182 or 1.183" filed 10 August 2007, treated herein under 37 CFR 1.182. Applicant has submitted the petition fee.

BACKGROUND

On 28 March 2007, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. The Request listed a single priority claim directed to U.S. application number 11/397,974, purportedly filed on 28 March 2006.

On 29 June 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Correct Priority Claim" (Form PCT/RO/110) indicating that the priority claim was defective. Specifically, the Form PCT/RO/110 indicated that the filing date for U.S. application number 11/397,974 listed in the Request (28 March 2006) did not match the filing date on the priority document itself (05 April 2006).

On 27 July 2007, applicant filed a "Response to The Invitation to Correct Priority Claim Under PCT Rules 4.10, 26bis.1, 26bis.2(a) and (b)" indicating that the proper priority information was as follows: US application number 11/397,974, filed 05 April 2007 (i.e., consistent with the information on the priority document itself, as indicated in the Form PCT/RO/110).

On 10 August 2007, applicant filed the petition considered herein. The petition asserts that the proper priority information is as follows: U.S. application number 11/391,974, filed March 28, 2006. The petition asserts that the 27 July 2007 submission to correct the priority claim was incorrect, and that the priority application confirmed therein (and now of record) has no connection to the present application.

DISCUSSION

PCT Rule 26 bis.1(a) sets forth the deadline for correction or addition of a priority claim as follows:

> 16 months from the priority date or, where the correction or addition would cause a change in the priority date, 16 months from the priority date as so changed, whichever 16-month period expires first, provided that such a notice may be submitted until the expiration of four months from the international filing date.

By the present petition, filed 10 August 2007, applicant is seeking to correct the priority claim to reference U.S. application number 11/391,974, filed March 28, 2006. This correction would change the priority date to 28 March 2006. Accordingly, the 16-month deadline for filing such a correction expired on 28 July 2006, that is, 16 months from the desired priority date (and four months from the international filing date). Because the present petition seeking to correct the priority claim was not filed within the time period permissible under PCT Rule 26bis, the priority claim cannot be corrected pursuant to PCT Rule 26bis.[1]

However, relief is available under PCT Rule 91.1. As noted by applicant, the desired priority information (U.S. application 11/391,974, filed 28 March 2006) was properly listed on the Form PTO-1382 Transmittal Letter filed with the international application. Applicant's intention to make such application the priority claim here is also reflected in the fact that the present international application was filed exactly one year after the filing date of the desired priority application, and the fact that the desired priority application corresponds to the present application in title, inventor, and subject matter (the filing date for the priority application erroneously confirmed in the 27 July 2007 communication is less than one year before the international filing date, and the title, inventors, and subject matter do not correspond to the present application).

In Kaepa, Inc. v. Quigg, No. CIV.A.88-3116-LFO, 1989 U.S. Dist. LEXIS 9886 (D.D.C. 1989), the court permitted a priority claim to an earlier application to be added under PCT Rule 4.10(b). The Kaepa court found three factors that indicated plaintiff's failure to include the parent application on the request form was an obvious error that could be rectified. First, although the priority claim was not made in Box No. VI in the Request, the earlier application at issue was referenced in a transmittal letter submitted with the Request. Second, the transmittal letter was a printed form provided by the RO/US; and the RO/US processed the letter along with the Request. Third, the international application was filed on 07 October 1987, almost one year to the day after the 08 October 1986, filing date of the earlier application, in common with most international applications, which are filed on or close to the one year anniversary of the prior

---

[1] It is noted that the current version of PCT Rule 26bis.2(b) states that a notice correcting a priority claim that is filed before the receiving Office or the IB has declared a priority claim to be considered void and which is submitted within one month of the expiration of the deadline set forth in Rule 26bis.1(a) will be considered to have been received prior to the expiration of the time limit. However, this provision was added to PCT Rule 26bis in the most recent revision of the PCT Rules and applies only to international applications with an international filing date later than 01 April 2007.

application. Based on these facts, the court concluded that the omission of the priority claim to this earlier application was an obvious error under PCT Rule 91.1.

A review of the originally filed application papers here confirm that the international application was accompanied by a PCT International Application Transmittal Letter (PTO-1382) which specifically references U.S. application 11/391,974, filed on 28 March 2006, as a prior application which contains subject matter related to the present international application. In addition, the transmittal letter was a printed form provided by the RO/US; and the RO/US processed the letter along with the Request. Finally, the international application was filed on 28 March 2007, exactly one year to the day after the 28 March 2006 filing date of the desired priority application, in common with most international applications, which are filed on or close to the one year anniversary of the prior application.

Based on the above, and applicant's statements in the present petition, rectification of the error in the priority claim is properly authorized by the RO/US. Specifically, rectification is authorized to correct the priority application currently of record herein (U.S application 11/397,974, filed 05 April 2006), which was erroneously set forth by applicant in the Request and in applicant's 27 July 2007 response to the PCT/RO/110, to the desired priority claim set forth in the present petition, that is, a claim based upon U.S. application number 11/391,974, filed on 28 March 2006.

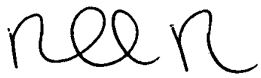
CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED** to the extent that the RO/US authorizes the rectification under PCT Rule 91.1 of the priority claim herein.

The specific rectification authorized is the correction of the present priority claim (U.S. application 11/397,974, filed 05 April 2006) with applicant's intended priority claim: U.S. application 11/391,974, filed 28 March 2006.

A copy of this decision and a "Notification Of Decision Concerning Request For Rectification" (Form PCT/RO/109) will be forwarded to the International Bureau.

The application is being referred to the RO/US for further processing.



Richard M. Ross
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UNITED STATES PATENT AND TRADEMARK OFFICE

29 AUG 2007

Commissioner for Patents
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JAMES A. D. WHITE
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
SUITE 5400
701 FIFTH AVENUE
SEATTLE, WA 98104-7064

In re Application of	:	
PELAGO, Inc.	:	DECISION
PCT No.: PCT/US07/08590	:	
Int. Filing Date: 06 April 2007	:	ON PETITION UNDER
Priority Date: 07 April 2007	:	
Docket No.: 740108.402PC	:	37 CFR 1.10(c)
For: PROXIMITY-BASED USER INTERACTION	:	

This decision is in response to applicant's Petition Under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office on 01 August 2007.

BACKGROUND

Applicant filed international application PCT/US07/08590 via Express Mail.

On 03 July 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 05 April 2007.

On 01 August 2007, applicant submitted a petition to correct the international filing date of the application.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 06 April 2007. The mailing label lists the "date in" as 06 April 2007. Under 37 CFR 1.10(a), correspondence delivered to the Office by "Express Mail" will be considered filed 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." 37 CFR 1.10(a).

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes a true copy of the Express Mail mailing label and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. (1) The petition was promptly filed. (2) The Express Mail mailing label number was included with the application papers. (3) Applicant provided a photocopy of the Express Mail mailing label.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 06 April 2007 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 03 July 2007, is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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24 JUL 2007

Joseph A. Sawyer, Jr.
Sawyer Law Group
P.O. Box 51418
Palo Alto, CA 94303

In re Application of :
ATMEL CORPORATION :
PCT No.: PCT/US07/08757 : DECISION ON PETITION
Int. Filing Date: 10 April 2007 :
Priority Date: 10 April 2006 : UNDER 37 CFR 1.10(c)
Attorney Docket No.: 3359PCT :
For: SYSTEM AND METHOD FOR COMBINING :
SIGNALS ON A DIFFERENTIAL I/O LINK :

This decision is in response to applicant's "Response to Invitation to Correct Priority Claim And/or Notification of Possibility to Request Restoration of The Right of Priority" filed in the United States Patent and Trademark Office (USPTO) on 03 July 2007. The paper is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 10 April 2007. No petition fee is due.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 10 April 2006.

The United States Receiving Office (US/RO) accorded the application an international filing date of 11 April 2007. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 19 June 2007. In addition, on 19 June 2007, applicant was mailed an "Invitation to Correct Priority Claim" (Form PCT/RO/110)

On 03 July 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 10 April 2007 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 11 April 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other

official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm database shows acceptance by the USPS as "Palo Alto CA 94303 04/10/07 5:00pm."

Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 19 June 2007 are hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 10 April 2007 and corrected first page of the PCT request form are enclosed with this decision.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

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CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

Encl: Form RO/105 and Page one of PCT Request

UNITED STATES PATENT and TRADEMARK OFFICE

14 NOV 2007

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

EDWARDS ANGELL PALMER &
DODGE LLP
P.O. Box 55874
Boston, Massachusetts 02205

In re Application of	:	DECISION ON
Roger Tung et al	:	
PCT No.: PCT/US07/08781	:	
Int. Filing Date: 11 April 2007	:	
Priority Date: 10 April 2006	:	PETITION UNDER
Attorney's Docket No.: 65291WO(54703)	:	
For: NOVEL 1,2,3,4-	:	
TETRAHYDROQUINOLINE DERIVATIVES	:	37 CFR 1.10 (c)

This decision is in response to the "PETITION TO GRANT FILING DATE UNDER 37 CFR 1.10 (d)," filed on 10 August 2007, which is being treated as a petition under 37 CFR 1.10 (c) requesting that the international filing date of 11 April 2007 be changed to 10 April 2007 for the above identified international application. No fee is required for this petition.

BACKGROUND

This petition is to correct the international filing date of the above international application that was purported to have been filed on 10 April 2007. The United States Receiving Office (RO/US) on 10 July 2007 mailed applicant a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) stating that the international filing date is 11 April 2007.

On 10 August 2007, the present petition was filed to this Office requesting that the application be accorded a filing date of 10 April 2007, which would be pursuant to the "Express Mail" provisions under 37 CFR 1.10(c). The petition included, *inter alia*, a copy of the "Certificate of Express Mailing Under 37 CFR 1.10 but did not include any evidence from the USPS such as a copy of the customer receipt of "Express Mail" Label No. EM054391891US or some other USPS official notation.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied items (1) and (2) but not (3) under 37 CFR 1.10(c).

A review of the application papers reveals that "Express Mail" Label No. EM054391891US was placed on the PCT transmittal letter prior to the original mailing by "Express Mai." 37 CFR 1.10(c)(2).

However, applicant has not provided a copy of the customer receipt of "Express Mail" Label No. EM054391891US filed with the present petition. Thus requirement 37 CFR 1.10(c)(3) has not been met.

Accordingly, the requirements under 37 CFR 1.10(c) have not been satisfied.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
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DODGE LLP
P.O. Box 55874
Boston, Massachusetts 02205

In re Application of	:	DECISION ON
Roger Tung et al	:	
PCT No.: PCT/US07/08781	:	
Int. Filing Date: 10 April 2007	:	
Priority Date: 10 April 2006	:	PETITION UNDER
Attorney's Docket No.: 65291WO(54703)	:	
For: NOVEL 1,2,3,4-	:	
TETRAHYDROQUINOLINE DERIVATIVES	:	37 CFR 1.10 (c)

This decision is in response to the "RENEWED PETITION TO GRANT FILING DATE or REQUEST FOR RECONSIDERATION," filed on 11 January 2008 requesting that the international filing date of 11 April 2007 be changed to 10 April 2007 for the above identified international application.

BACKGROUND

In a decision from this Office on14 November 2007, the petition filed on 10 August 2007 was dismissed. The decision indicated that requirement (3) of 37 CFR 1.10(c) was not met.

On 11 January 2008, the present renewed petition was filed to this Office.

DISCUSSION

Applicant has satisfied requirements (3) of 37 CFR 1.10(c), thus satisfying the requirements under 37 CFR 1.10(c).

A review of renewed petition reveals that "Express Mail" Label No. EM054391891US filed with the present petition identifies the day of deposit as "10 April 2007" as stamped by the USPS, which shows that the above application was submitted on 10 April 2007. Also, the track and confirm email for the USPS shows that the package with Express Mail" Label No. EM054391891US was accepted at the Boston office on 10 April 2007 at 11:19 pm. 37 CFR 1.10(c)(3).

Accordingly, the requirements under 37 CFR 1.10(c) have now been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED** and the date of receipt of the above international application at the USPTO is **10 April 2007**.

Form PCT/RO/105, mailed 10 July 2007, is hereby **VACATED**.

This application is being forwarded to the RO/US section of the Office of PCT Operations for preparation and mailing of a new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the present application an international filing date of **10 April 2007** and for forwarding a copy of this decision to the International Bureau.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Enclosed: First page of the Request
Form PCT/RO/105

CC: The International Bureau of WIPO
34, Chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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29 OCT 2007

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SAN DIEGO, CA 92101

In re Application of	:	
QUALCOMM, Inc.	:	
PCT No.: PCT/US07/08790	:	
Int. Filing Date: 10 April 2007	:	DECISION
Priority Date: 21 April 2006	:	
Docket No.: 3722PCT	:	ON PETITION UNDER
For: METHOD AND APPARATUS FOR PROVIDING BRIGHTNESS CONTROL IN AN ITNERFEROMETRIC MODULATOR (IMOD) DISPLAY	:	37 CFR 1.10(c)

This decision is in response to applicant's Petition Under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office on 19 September 2007.

BACKGROUND

Applicant filed international application PCT/US07/08790 via Express Mail.

On 10 July 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 11 April 2007.

On 19 September 2007, applicant submitted a petition to correct the international filing date of the application.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 10 April 2007. The mailing label lists the "date in" as 10 April 2007. Under 37 CFR 1.10(a), correspondence delivered to the Office by "Express Mail" will be considered filed 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." 37 CFR 1.10(a).

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes

a true copy of the Express Mail mailing label and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. (1) The petition was promptly filed. (2) The Express Mail mailing label number was included with the application papers. (3) Applicant provided a photocopy of the Express Mail mailing label.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 10 April 2007 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 10 July 2007, is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Facsimile: 571-273-0459

cc: International Bureau
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Switzerland

Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

UNITED STATES PATENT AND TRADEMARK OFFICE

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27 SEP 2007

Louis Woo
LAW OFFICES OF LOUIS WOO
717 North Fayette Street
Alexandria, VA 22314

In re Application of	:	
SMITHS MEDICAL ASD, INC.	:	
PCT No.: PCT/US07/08863	:	DECISION UNDER
Int. Filing Date: 09 April 2007	:	37 CFR 1.181
Priority Date: 12 April 2006	:	
Agent's File Reference: 107/041-PCT	:	
For: UNDERBODY THERMAL BLANKET	:	

Applicant's 30 July 2007 communication is being treated as a petition under 37 CFR 1.181 requesting that the copy of proposed replacement drawing figures nos. 9 and 10 (drawing sheet no. 7/7) filed with the present petition be accepted in lieu of the originals filed on 09 April 2007. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 09 April 2007, applicant filed international application PCT/US07/08863, which claimed priority to a U.S. application filed 12 April 2006.

On 15 June 2007, The United States Receiving Office (RO/US) mailed, inter alia, an "INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE MISSING" (Form PCT/RO/107) informing applicant that drawing figures nos. 9 and 10 (drawing sheet no. 7/7) appeared to be missing.

On 30 July 2007, applicant filed the present petition forwarding a copy of proposed replacement drawing figures nos. 9 and 10 (drawing sheet no. 7/7) and a copy of the return receipt postcard indicating receipt of proposed replacement drawing sheet no. 7/7 on 09 April 2007 with the original application papers.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicant has provided sufficient evidence that proposed replacement drawing figures nos. 9 and 10 (drawing sheet no. 7/7) included with the present petition were filed on 09 April 2007. The petition indicates that the copy of drawing sheet no. 7/7 attached thereto is a true copy of the original filed on 09 April 2007. The copy of the return receipt postcard itemizes, inter alia, "Drawings - 7 sheets. Accordingly, the copies of drawing figures nos. 9 and 10 (drawing sheet no. 7/7) filed with the present petition may properly be **ACCEPTED** as having been filed on **09 April 2007.**

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED.**

The present application is being forwarded to the RO/US for the treating of drawing figures nos. 9 and 10 (drawing sheet no. 7/7) filed with the present petition as having been filed on 09 April 2007 and to forward a copy of drawing sheet no. 7/7 to the International Bureau.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
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JSF/RC:jf

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17 SEP 2007

GEORGE B. ALMEIDA
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In re Application of	:	
MACROVISION CORPORATION	:	DECISION
PCT No.: PCT/US07/09066	:	
Int. Filing Date: 12 April 2007	:	ON
Priority Date: 26 April 2006	:	
Attorney's Docket No.: 0328PCT	:	PETITION
For: Service Providing An Electronic Market For The Distribution Of Promotional Material Using Software Installation Packages	:	

This is in response to applicants' "Request For Correction Of International Application Filing Date" filed on 11 July 2007, which is being treated as a petition under 37 CFR 1.10(c).

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 15 June 2007, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 12 April 2007 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 11 April 2007, rather than 12 April 2007 as indicated on Form PCT/RO/105.

Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with **37 CFR 1.10(c)(1)**.

Regarding **37 CFR 1.10(c)(2),** review of the correspondence in question reveals that no Express Mail mailing label number appears to have been recorded on the correspondence itself. While an Express Mail number, EL989582233US, appears on a copy of an return postcard receipt accompanying the petition (and not stamped with a receipt date by the RO/US), petitioner is advised that a return postcard receipt is not deemed to constitute part of the "correspondence" because it is not intended to become included in the official application file. Based on the evidence currently of record, it would not be appropriate to conclude that 37 CFR 1.10(c)(2) has been satisfied at this time.

With regard to **37 CFR 1.10(c)(3)**, counsel has provided a photocopy of the "Customer Copy" of Express Mail mailing label number EL989582233US, which shows a "date-in" of "7 11" (year illegible), as well as a USPS plug stamp dated "APR 11 2007."Based on the totality of the evidence of record, it would be appropriate to conclude that 37 CFR 1.10(c)(3) has been satisfied.

DECISION

Applicants' petition is **DISMISSED**, without prejudice, for the reasons described *supra*.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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24 JUL 2007

M. BRUCE HARPER
222 CENTRAL PARK AVENUE, SUITE 1700
VIRGINIA BEACH VA VIRGINIA 23462

In re Application of :
GARRETT T. JOHNSON :
PCT No.: PCT/US07/09123 : DECISION ON PETITION
Int. Filing Date: 13 April 2007 :
Priority Date: 06 January 2007 :
Atty. Docket No.: 026907.0039 :
For: WAVE GENERATING SYSTEM :

This is a decision on applicant's "Request To Amend International Application Filing Receipt and Record", treated as a petition under 37 CFR 1.10, filed in the United States Patent and Trademark Office (USPTO) on 11 July 2007. Applicant, in effect, requests that the USPTO accord a filing date of 13 April 2007 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/09123, which claimed a priority date of 06 January 2007.

On 29 June 2007, a Notification of the International Application Number and of the International Filing Date was mailed to applicant indicating that the International filing date of the application is 12 April 2007.

On 11 July 2007, applicant filed the present request, which included a copy of the USPS Customer Receipt Express Mail mailing label #EV615175821US bearing a "date-in" of "4/13/07" and a USPS barrel stamp of "APR 13 2007" .

The mailing label was addressed to the "Mail Stop PCT, Commissioner for Patents, PO BOX 1450, Alexandria, VA 22313-1450". The "Date In" is "4/13/07" and the Customer Receipt bears a USPS barrel-stamp "APR 13 2007".

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition contains a copy of the "Express Mail" Mailing Label # EV615175821US, which bears a USPS barrel stamp date of "APR 13 2007". The transmittal letter having "Express Mail" mailing label Express Mail # EV615175821US thereon is contained in the application file.

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 13 April 2007. Specifically, the "Express Mail" label number ("EV615175821US") appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application papers were deposited on 13 April 2007.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of 13 April 2007 is GRANTED.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 29 June 2007 is hereby VACATED. A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 13 April 2007.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
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cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

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90 SOUTH SEVENTH STREET
MINNEAPOLIS MN MINNESOTA 55402-3901

In re Application of	:	
MAYO FOUNDATION FOR MEDICAL EDUCATION	:	
PCT No.: PCT/US07/09247	:	DECISION
Int. Filing Date: 13 April 2007	:	
Priority Date: 13 April 2006	:	
Atty. Docket No.: 352869	:	
For: FETAL HEART RATE MONITORING SYSTEM	:	

This decision is in response to applicant's "Response to Important Communication Dated February 22, 2008" filed in the United States Patent and Trademark Office (USPTO) on 21 March 2008.

BACKGROUND

On 22 February 2008, applicant was mailed a "Notification on Decision of Confirmation of Incorporation by Reference of Element or Part" (Form PCT/RO/114) informing applicant that the submitted figure would not be incorporated. Applicant was also mailed a "Notification Concerning Later Submitted Parts of an International Application" (Form PCT/RO/126) informing applicant that the submitted missing part was timely submitted an that the international application date was being corrected to 19 July 2007. Applicant was afforded one month to have the missing part disregarded and the international filing date restored to 13 April 2007.

On 21 March 2008, applicant filed the response considered herein.

DISCUSSION

I. Request For Reconsideration of Refusal to Accept Figure 12

Applicant seeks reconsideration as to the determination that figure 12 will not be incorporated by reference. Applicant claims that the replacement sheet drawing was entirely supported by the original figure contained in the priority provisional application. As explained in the Form PCT/RO/114 mailed 22 February 2008, the difference in the drawing submitted on 19 July 2007 calls into question whether this omission constitutes new matter. The Office will not make determinations as to whether the absence of material from the original figure constitutes new matter in the later filed element. As such, the request for reconsideration is **DENIED**.

II. Alternative Request For Acceptance of Figure 12

Applicant has currently submitted an identical copy of the figure in question seeking its incorporation and retention of the original international filing date arguing that the filing of 19 July 2007 constituted a good faith attempt to have the drawing incorporated by reference. Applicant is advised that PCT Rule 20.6 does not make provisions for good faith efforts but instead requires submission of the incorporated element within two months of filing. As such, the currently filed version of Figure 12 cannot be accepted.

III. Request to Disregard The Missing Part

Per applicant's request the missing part filed 19 July 2007 is disregarded pursuant to PCT Rule 20.5(e). The international filing date will be corrected to 13 April 2007. A Form PCT/RO/126 accompanies this decision.

CONCLUSION

For the reasons stated above Figure 12 filed 19 July 2007 is disregarded. The international filing date of the present international application is hereby corrected to **13 April 2007**.

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

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CC: International Bureau of WIPO
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Attch: Form PCT/RO/126

UNITED STATES PATENT AND TRADEMARK OFFICE

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10 OCT 2007

Sean F. Parmenter
Townsend & Townsend & Crew, LLP
Two Embarcadero Center
San Francisco, CA 94111-3834

In re Application of	:	
Magma Design Automation, Inc.	:	DECISION ON
PCT No.: PCT/US07/09261	:	
Int. Filing Date: 13 April 2007	:	PETITION UNDER
Priority Date: 14 April 2006	:	
Attorney's Docket No.: 26661-51-1PC	:	37 CFR 1.10(e)
For: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION	:	

This decision is in response to the "REQUEST FOR REIMBURSEMENT OF LATE FEES UNDER 37 CFR §1.10." This has been treated as a petition under 37 CFR 1.10(e).

BACKGROUND

On 13 April 2007, applicant filed papers that were assigned international application number PCT/US07/09261.

On 18 May 2007, the United States Receiving Office (RO/US) mailed to applicant the "NOTIFICATION CONCERNING THE PAYMENT OF PRESCRIBED FEES" (Form PCT/RO/102) inviting applicant to pay the balance of $1942.

On 10 July 2007, the RO/US mailed applicant the "INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE" (Form PCT/RO/133) inviting applicant to pay the previous balance of $1942 together with the late payment fee of $543. This invitation sent a one-month time period for response.

On 06 August 2007, applicant faxed a letter authorizing the RO/US to charge the fees plus late fees to applicant's deposit account. Applicant indicates that a copy of a letter that was sent to the RO/US on 29 May 2007 in response to the "NOTIFICATION CONCERNING THE PAYMENT OF PRESCRIBED FEES" (Form PCT/RO/102) has been enclosed.

DISCUSSION

37 CFR 1.10(e) states:

(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.

Applicant filed the petition promptly after receiving the "INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE" (Form PCT/RO/133). Applicant also provided a copy of an Express Mail mailing label showing a date of 29 May 2007, along with a copy of the papers filed that day. The transmittal letter contained the Express Mail label number. However, the petition did not include a sufficient statement from the person having firsthand knowledge that the correspondence was mailed on 29 May 2007, i.e., the person who personally deposited the correspondence. Therefore, the request for refund is dismissed.

CONCLUSION

Applicant's request for refund of the late payment fee is hereby **DISMISSED without prejudice**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(e)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Bryan Lin
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CONFIRMATION

August 20, 2007

VIA EXPRESS MAIL (EV 336071188 US)
& FACSIMILE 571.273.0459

RECEIVED
27 AUG 2007
Legal Staff
International Division

Attn: PCT Legal
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: International Application No. PCT/US2007/009261
Filed: April 13, 2007
Entitled: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION
Applicant: Magma Design Automation, Inc.
Previous Ref.: 12385 PCT
Our Ref.: 26661-51-1PC

REQUEST FOR REIMBURSEMENT OF LATE FEES UNDER 37 C.F.R. §1.10

Dear Sirs:

Applicants respectfully request reimbursement of fees paid in the amount of $543 in response to an Invitation to Pay Prescribed Fees Together With Late Payment Fee that issued on July 10, 2007, for the above-identified international patent application.

Enclosed is a true photocopy of our letter, deposited with the Palo Alto Hamilton Station United States Post Office on May 29, 2007, requesting that the outstanding prescribed fees in the amount of $1,942 be charged to our deposit account. Also, enclosed is a true copy of the corresponding Express Mail Receipt stamped with a date of May 29, 2007, by the Palo Alto Hamilton Station United States Post Office.

Applicant respectfully requests that $543 be credited to **Deposit Account No. 20-1430** as instructions to pay the prescribed fees were supplied on May 29, 2007, before the Invitation to Pay Prescribed Fees Together With Late Payment Fee issued on July 10, 2007. Therefore, the prescribed fees were timely paid in accordance with Rule 16bis.1(d), and no late fee should have been charged.

Further, pursuant to Rule 92*bis*, Applicants respectfully request recordation of change of *Applicant's or agent's file reference* from "12385 PCT" to "**26661-51-1PC**."

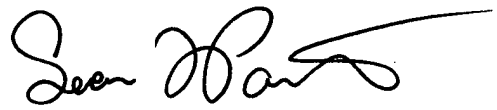
TOWNSEND
and
TOWNSEND
and
CREW
LLP

Also pursuant to Rule *92bis*, applicants respectfully request recordation of change of agent's address from "TOWNSEND and TOWNSEND and CREW LLP, 379 Lytton Avenue, Palo Alto, CA 94301" to "**TOWNSEND and TOWNSEND and CREW LLP, Two Embarcadero Center, 8th Floor, San Francisco, CA 94111**". Applicants respectfully await the Notification of the Recording of a Change, Form PCT/IB/306.

We look forward to hearing from you and thank you for your attention to these matters. If you have any questions, or if you would like to discuss these matters further, please feel free to contact me.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP



Sean F. Parmenter
Reg. No. 53,437

SFP/kmw

Enclosures: Copy of Express Mail Receipt dated May 29, 2007
Copy of Correspondence dated May 29, 2007

cc: Authorized Officer Jon Kurtz (Via Facsimile 571.270.9983)

61126989 v1

EV 824646626 US

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Customer Copy
Label 11-F, April 2004

Post Office To Addressee

ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code: 94301	Day of Delivery: ☐ Next ☐ 2nd ☐ 2nd Del. Day	Postage: $ 16.25	
Date Accepted: Mo. 5 Day 29 Year 07	Scheduled Date of Delivery: Month 5 Day 31	Return Receipt Fee: $	
Time Accepted: 433 ☐ AM ☒ PM	Scheduled Time of Delivery: ☐ Noon ☐ 3 PM	COD Fee: $	Insurance Fee: $
Flat Rate ☐ or Weight: lbs. 2 ozs. 2	Military: ☐ 2nd Day ☐ 3rd Day	Total Postage & Fees: $ 16.25	
	Int'l Alpha Country Code	Acceptance Emp. Initials	

DELIVERY (POSTAL USE ONLY)

Delivery Attempt: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature
Delivery Attempt: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature
Delivery Date: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature

PALO ALTO CA HAMILTON STA MAY 29 2007 USPS

☐ WAIVER OF SIGNATURE (Domestic Mail Only): Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

☐ NO DELIVERY ☐ Weekend ☐ Holiday

(Customer Signature)

CUSTOMER USE ONLY

METHOD OF PAYMENT: A941800

Express Mail Corporate Acct. No.

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE (650 320 2400)

TOWNSEND TOWNSEND & CREW LLP
379 LYTTON AVE
PALO ALTO CA 94301-1431

026661-005110PC
BXS/m6m
May 29, 2007

TO: (PLEASE PRINT) PHONE ( )

COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

Request to charge fees to deposit account

FOR PICKUP OR TRACKING: Visit **www.usps.com** or Call 1-800-222-1811

PCT/US2007/009261 02.10.2007

TRANSMITTAL LET[illegible] OF THE
UNITED STATES RECE[illegible]NG OFFICE

PCT/US2007/009261 02.10.2007

INTERNATIONAL APP[illegible]NO.	PCT/US2007/009261
ATTY DOCKET NO.	12385 PCT

I. Certification under 37 CFR 1.10 (if applicable)

EV 824 646 626 US	29 May 2007 (29.05.2007)
Express Mail mailing number	Date of Deposit

II. ☐ New International Application

Title		Earliest priority date (Day/Month/Year)

SCREENING DISCLOSURE INFORMATION: In order to assist in screening the accompanying international application for purposes of determining whether a license for foreign transmittal should and could be granted and for other purposes, the following information is supplied. (Note: check as many boxes as apply):

A. ☐ The invention disclosed was **not** made in the United States.
B. ☐ There is no prior U.S. application relating to this invention.
C. ☐ The following prior U.S. application(s) contain subject matter which is related to the invention disclosed in the attached international application. (NOTE: *priority to these applications may or may not be claimed on form PCT/RO/101 (Request) and this listing does not constitute a claims for priority).*

application no.		filed on	

D. ☐ The present international application ☐ contains additional subject matter not found in the prior U.S. application(s) identified in paragraph C above. The additional subject matter is found on pages:_____ and ☐ **DOES NOT ALTER** ☐ **MIGHT BE CONSIDERED TO ALTER** the general nature of the invention in a manner which would require the U.S. application to have been made available for inspection by the appropriate defense agencies under 35 USC 181 and 37 CFR 5.1. See 37 CFR 5.15.

III. ☐ A Response to an Invitation from the RO/US. The following document(s) is (are) enclosed:

A. ☐ A Request for an Extension of Time to File a Response.
B. ☐ A Power of Attorney (General or Regular)
C. ☐ Replacement pages:

pages		of the request (PCT/RO/101)	pages		of the figures
pages		of the description	pages		of the abstract
pages		of the claims			

D. ☐ Submission of Priority Documents

Priority document		Priority document	

E. ☐ Fees as specified on attached Fee Calculation sheet form PCT/RO/101 annex

IV. ☐ A Request for rectification under PCT 91 ☐ A Petition ☐ A Sequence Listing Diskette

V. ☒ Other (please specify): **☒ Postcard ☒ Letter to Officer Kurtz with authorization to charge fees and Rule 92bis request to update agent reference number and address information**

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430.

The person signing this form is the		
	☐ Applicant	**Barmak Sani**
	☒ Attorney/Agent (Reg. No.) 45,068	Typed name of signer
	☐ Common Representative	Signature

61062579v1

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Palo Alto, California
Tel 650 326-2400

Walnut Creek, California
Tel 925 472-5000

San Diego, California
Tel 858 350-6100

Denver, Colorado
Tel 303 571-4000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

May 29, 2007

VIA FACSIMILE (571 273 3201)
CONFIRMATION VIA EXPRESS MAIL

URGENT

Officer Jon Kurtz
Mail Stop PCT, Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: International Application No. PCT/US2007/009261
International Filing Date: 13 April 2007
Applicant: MAGMA DESIGN AUTOMATION, INC. *et al.*
Title: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION
Inventors: Riepe, Michael A. *et al.*
Our File Reference.: 12385 PCT

Dear Officer Kurtz:

In response to the *Notification Concerning Payment of Prescribed Fees* dated 18 May 2007, Applicants hereby authorize the U.S. Patent Office to charge the fees in the amount of **$1,942.00** to **Deposit Account No. 20-1430** for the above-referenced application. The Commissioner is hereby authorized to charge any additional fees associated with this application, or credit any overpayment, to the above deposit account.

Pursuant to Rule *92bis*, applicants respectfully request recordation of change of agent's address from "TOWNSEND and TOWNSEND and CREW LLP, 379 Lytton Avenue, Palo Alto, CA 94301" to **"TOWNSEND and TOWNSEND and CREW LLP, Two Embarcadero Center, 8th Floor, San Francisco, CA 94111"**.

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Applicants respectfully await the Notification of the Recording of a Change, Form PCT/IB/306.

Thank you for your attention to this matter.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

Barmak Sani
Reg. No. 45,068

BXS/m6m
61062526v1

25 JAN 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

Sean F. Parmenter
Townsend & Townsend & Crew, LLP
Two Embarcadero Center
San Francisco, CA 94111-3834

In re Application of	:
Magma Design Automation, Inc.	: DECISION ON
PCT No.: PCT/US07/09261	:
Int. Filing Date: 13 April 2007	: RENEWED PETITION
Priority Date: 14 April 2006	:
Attorney's Docket No.: 26661-51-1PC	: UNDER 37 CFR 1.10(e)
For: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION	:

This decision is in response to the "RENEWED PETITION UNDER 37 CFR §1.10(e) (REQUEST FOR REIMBURSEMENT OF LATE FEES)" which was filed 16 November 2007.

BACKGROUND

On 13 April 2007, applicant filed papers that were assigned international application number PCT/US07/09261.

On 18 May 2007, the United States Receiving Office (RO/US) mailed to applicant the "NOTIFICATION CONCERNING THE PAYMENT OF PRESCRIBED FEES" (Form PCT/RO/102) inviting applicant to pay the balance of $1942.

On 10 July 2007, the RO/US mailed applicant the "INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE" (Form PCT/RO/133) inviting applicant to pay the previous balance of $1942 together with the late payment fee of $543. This invitation sent a one-month time period for response.

On 06 August 2007, applicant faxed a letter authorizing the RO/US to charge the fees plus late fees to applicant's deposit account. Applicant indicates that a copy of a letter that was sent to the RO/US on 29 May 2007 in response to the "NOTIFICATION CONCERNING THE PAYMENT OF PRESCRIBED FEES" (Form PCT/RO/102) has been enclosed.

On 01 October 2007, a decision was mailed to applicant indicating that the petition did not contain a sufficient statement from the person having firsthand knowledge that the correspondence was mailed on 29 May 2007.

On 16 November 2007, the current renewed petition was filed by applicant.

DISCUSSION

37 CFR 1.10(e) states:

> (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.

Applicant has previously satisfied items (1), (2), and (3) above. With regard to item (4) above, the renewed petition contains a sufficient statement from the person with appropriate firsthand knowledge of the deposit of the correspondence in Express Mail on 29 May 2007.

CONCLUSION

The renewed petition under 37 CFR 1.10(e) is hereby **GRANTED**.

The fee of **$543** will be credited to applicant's deposit account number **20-1430**.

This application is being returned to the RO/US for continued processing.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Telephone: (571) 272-3280
Facsimile: (571) 273-0459

Bryan Lin for
Leonard Smith
PCT Legal Examiner
PCT Legal Office

TOWNSEND
and
TOWNSEND
and
CREW
LLP

RECEIVED
16 NOV 2007
Legal Staff
International Division

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco, California 94111-3834
Tel 415.576.0200
Fax 415.576.0300

November 16, 2007

VIA EXPRESS MAIL (EV 325552229 US)
& FACSIMILE 571.273.0459

Attn: PCT Legal Office
Debra S. Brittingham and Bryan Lin
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: International Application No. PCT/US2007/009261
Filed: April 13, 2007
Entitled: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION
Applicant: Magma Design Automation, Inc.
Previous Ref.: 12385 PCT
Our Ref.: 26661-51-1PC

RENEWED PETITION UNDER 37 C.F.R. §1.10(e)
(REQUEST FOR REIMBURSEMENT OF LATE FEES)

Dear Ms. Brittingham and Mr. Lin:

Further to your letter dated October 1, 2007, Applicants respectfully submit a Renewed Petition Under 37 C.F.R. §1.10(e). Applicants respectfully request reimbursement of fees paid in the amount of $543 in response to an Invitation to Pay Prescribed Fees Together With Late Payment Fee that issued on July 10, 2007, for the above-identified international patent application.

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Statement

I, Lito De Vera, confirm that I personally deposited the above-mentioned Express Mail envelope, receipt number EV 824646626 US, with the Palo Alto Hamilton Station United States Post Office on May 29, 2007.

Lito De Vera — 11/12, 2007
Date

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Applicant respectfully requests that $543 be credited to **Deposit Account No. 20-1430** as instructions to pay the prescribed fees were supplied on May 29, 2007, before the Invitation to Pay Prescribed Fees Together With Late Payment Fee issued on July 10, 2007. Therefore, the prescribed fees were timely paid in accordance with Rule 16bis.1(d), and no late fee should have been charged.

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Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

Sean F. Parmenter
Reg. No. 53,437

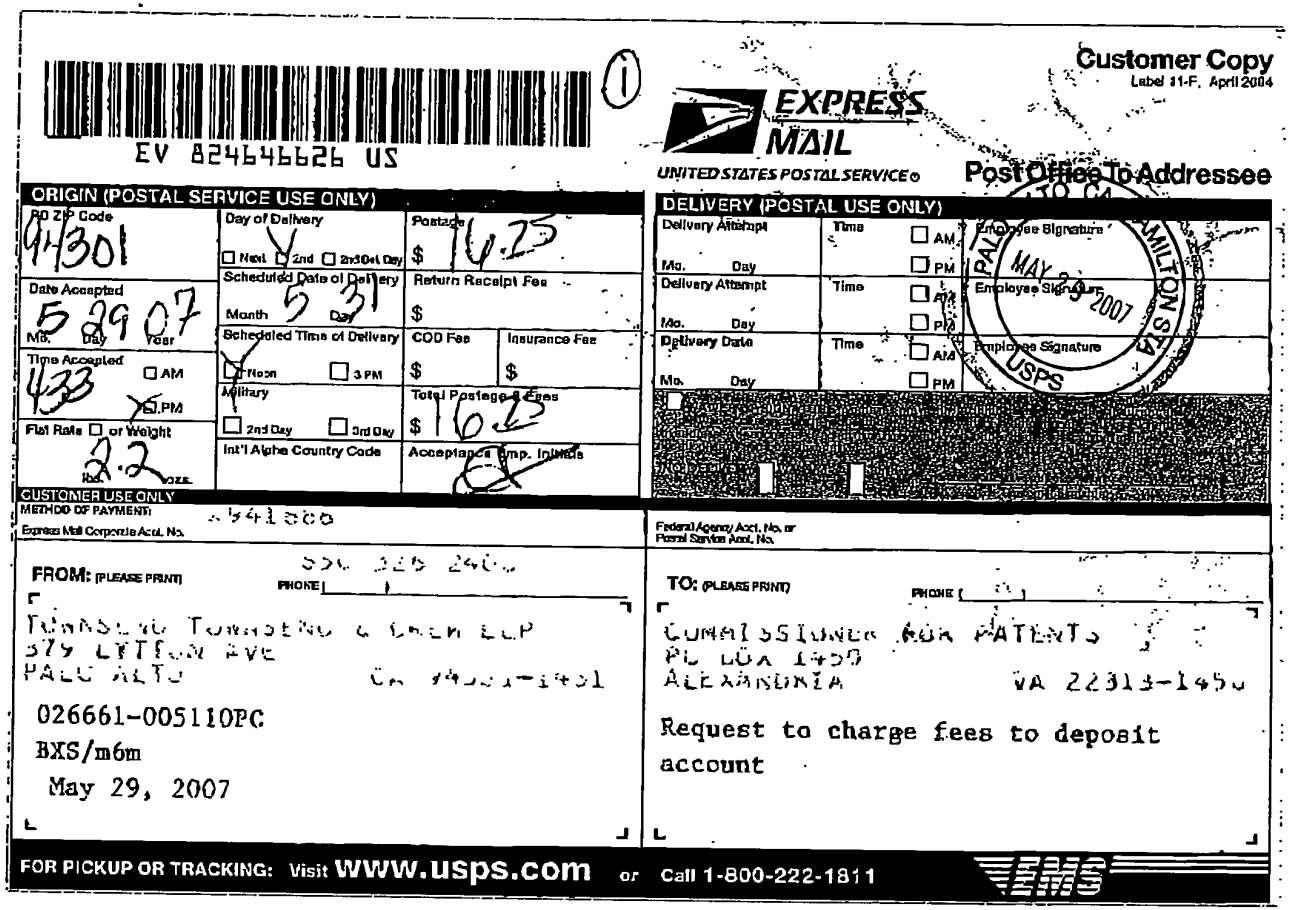
SFP/kmw

Enclosures: Copy of Express Mail Receipt dated May 29, 2007
Copy of Correspondence dated May 29, 2007

61203798 v1

01/25/2008 SBASHEIR 00000001 201430 PCT/US07/0
%cbl
01 FC:1619 543.00 DA

PCT/US2007/009261 25.01.2008



COPY

EV 824646626 US

(1)

Customer Copy
Label 11-F, April 2004

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL SERVICE USE ONLY)

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Date Accepted: 5 29 07 (Mo. Day Year)	Scheduled Date of Delivery: Month 5 31 Day	Return Receipt Fee: $
Time Accepted: 433 ☐ AM ☒ PM	Scheduled Time of Delivery: ☒ Noon ☐ 3 PM	COD Fee: $ / Insurance Fee: $
Flat Rate ☐ or Weight: 2.2 lbs. ozs.	Military: ☐ 2nd Day ☐ 3rd Day	Total Postage & Fees: $ 16.25
	Int'l Alpha Country Code	Acceptance Emp. Initials

DELIVERY (POSTAL USE ONLY)

Delivery Attempt: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature
Delivery Attempt: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature
Delivery Date: Mo. Day	Time: ☐ AM ☐ PM	Employee Signature

PALO ALTO CA HAMILTON STA MAY 29 2007 USPS

CUSTOMER USE ONLY

METHOD OF PAYMENT: Express Mail Corporate Acct. No. 941000

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE 550 326 2400

TOWNSEND TOWNSEND & CREW LLP
379 LYTTON AVE
PALO ALTO CA 94301-1431

026661-005110PC
BXS/m6m
May 29, 2007

TO: (PLEASE PRINT) PHONE

COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

Request to charge fees to deposit account

FOR PICKUP OR TRACKING: Visit www.usps.com or Call 1-800-222-1811

EMS

TRANSMITTAL LET[illegible] OF THE UNITED STATES RECE[illegible] OFFICE

DATE	29 May 2007 (29.05.2007)
INTERNATIONAL APP[illegible]	PCT/US2007/009261
ATTY DOCKET NO.	12385 PCT

I. Certification under 37 CFR 1.10 (if applicable)

Express Mail mailing number	Date of Deposit
EV 824 646 626 US	29 May 2007 (29.05.2007)

II. ☐ New International Application

Title	Earliest priority date (Day/Month/Year)

COPY

SCREENING DISCLOSURE INFORMATION: In order to assist in screening the accompanying international application for purposes of determining whether a license for foreign transmittal should and could be granted and for other purposes, the following information is supplied. (Note: check as many boxes as apply):

A. ☐ The invention disclosed was not made in the United States.
B. ☐ There is no prior U.S. application relating to this invention.
C. ☐ The following prior U.S. application(s) contain subject matter which is related to the invention disclosed in the attached international application. (NOTE: *priority to these applications may or may not be claimed on form PCT/RO/101 (Request) and this listing does not constitute a claims for priority).*

application no.		filed on	

D. ☐ The present international application ☐ contains additional subject matter not found in the prior U.S. application(s) identified in paragraph C above. The additional subject matter is found on pages:_____ and ☐ **DOES NOT ALTER** ☐ **MIGHT BE CONSIDERED TO ALTER** the general nature of the invention in a manner which would require the U.S. application to have been made available for inspection by the appropriate defense agencies under 35 USC 181 and 37 CFR 5.1. See 37 CFR 5.15.

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pages		of the request (PCT/RO/101)	pages		of the figures
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D. ☐ Submission of Priority Documents

Priority document		Priority document	

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V. ☒ Other (please specify): ☒ **Postcard** ☒ **Letter to Officer Kurtz with authorization to charge fees and Rule 92bis request to update agent reference number and address information**

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430.

The person signing this form is the

☐ Applicant	**Barmak Sani**
☒ Attorney/Agent (Reg. No.) 45,068	Typed name of signer
☐ Common Representative	Signature

61062579v1

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Palo Alto, California
Tel 650 326-2400

Walnut Creek, California
Tel 925 472-5000

San Diego, California
Tel 858 350-6100

Denver, Colorado
Tel 303 571-4000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

COPY

May 29, 2007

VIA FACSIMILE (571 273 3201)
CONFIRMATION VIA EXPRESS MAIL

URGENT

Officer Jon Kurtz
Mail Stop PCT, Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: International Application No. PCT/US2007/009261
International Filing Date: 13 April 2007
Applicant: MAGMA DESIGN AUTOMATION, INC. *et al.*
Title: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION
Inventors: Riepe, Michael A. *et al.*
Our File Reference.: 12385 PCT

Dear Officer Kurtz:

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Thank you for your attention to this matter.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

Barmak Sani
Reg. No. 45,068

BXS/m6m
61062526v1

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	9229
RECIPIENT ADDRESS	925 472 8849
DESTINATION ID	
ST. TIME	11/16 14:57
TIME USE	00'52
PGS.	5
RESULT	OK

TOWNSEND
and
TOWNSEND
and
CREW
LLP

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco, California 94111-3834
Tel 415.576.0200
Fax 415.576.0300

CONFIRM COPY

RECEIVED

16 NOV 2007

Legal Staff
International Division

November 16, 2007

VIA EXPRESS MAIL (EV 325552229 US)
& FACSIMILE 571.273.0459

Attn: PCT Legal Office
Debra S. Brittingham and Bryan Lin
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Applicant: Magma Design Automation, Inc.
Previous Ref.: 12385 PCT
Our Ref.: 26661-51-1PC

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Lito De Vera

11/12, 2007
Date

TOWNSEND and TOWNSEND and CREW LLP

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Sean F. Parmenter
Reg. No. 53,437

SFP/kmw

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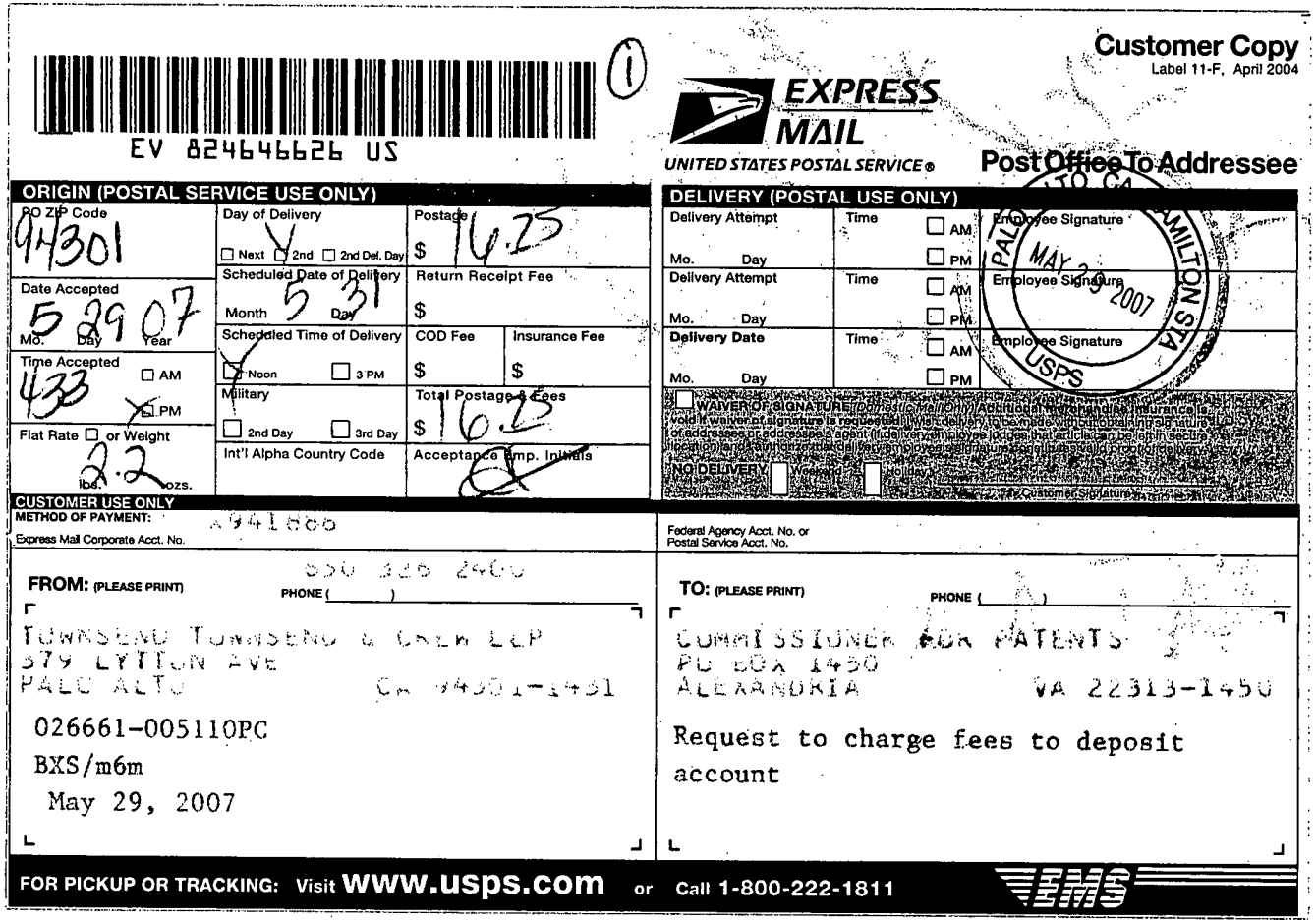
61203798 v1



EV 824646626 US

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Customer Copy
Label 11-F, April 2004

Post Office To Addressee

ORIGIN (POSTAL SERVICE USE ONLY)

PO ZIP Code: 94301	Day of Delivery: ☐ Next ☐ 2nd ☐ 2nd Del. Day	Postage: $ 16.25
Date Accepted: 5 29 07 (Mo. Day Year)	Scheduled Date of Delivery: Month 5 Day 31	Return Receipt Fee: $
Time Accepted: 433 ☐ AM ☒ PM	Scheduled Time of Delivery: ☐ Noon ☐ 3 PM	COD Fee: $ / Insurance Fee: $
Flat Rate ☐ or Weight: 2.2 lbs. ozs.	Military: ☐ 2nd Day ☐ 3rd Day	Total Postage & Fees: $ 16.25
	Int'l Alpha Country Code	Acceptance Emp. Initials

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FROM: (PLEASE PRINT) PHONE (650 325 2400)

TOWNSEND TOWNSEND & CREW LLP
379 LYTTON AVE
PALO ALTO CA 94301-1431

026661-005110PC
BXS/m6m
May 29, 2007

TO: (PLEASE PRINT) PHONE ( )

COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

Request to charge fees to deposit account

FOR PICKUP OR TRACKING: Visit **www.usps.com** or Call 1-800-222-1811

EMS

COPY

PCT/US2007/009261 25.01.2008

TRANSMITTAL LET[illegible] OF THE
UNITED STATES RECE[illegible] OFFICE

DATE	29 May 2007 (29.05.2007)
INTERNATIONAL APPL.	PCT/US2007/009261
ATTY DOCKET NO.	12385 PCT

PCT/US2007/009261 25.01.2008

I. Certification under 37 CFR 1.10 (if applicable)

EV 824 646 626 US	29 May 2007 (29.05.2007)
Express Mail mailing number	Date of Deposit

II. ☐ New International Application

Title		Earliest priority date (Day/Month/Year)
	COPY	

SCREENING DISCLOSURE INFORMATION: In order to assist in screening the accompanying international application for purposes of determining whether a license for foreign transmittal should and could be granted and for other purposes, the following information is supplied. (Note: check as many boxes as apply):

A. ☐ The invention disclosed was **not** made in the United States.
B. ☐ There is no prior U.S. application relating to this invention.
C. ☐ The following prior U.S. application(s) contain subject matter which is related to the invention disclosed in the attached international application. (NOTE: *priority to these applications may or may not be claimed on form PCT/RO/101 (Request) and this listing does not constitute a claims for priority).*

application no.		filed on	

D. ☐ The present international application ☐ contains additional subject matter not found in the prior U.S. application(s) identified in paragraph C above. The additional subject matter is found on pages: _____.
and ☐ **DOES NOT ALTER** ☐ **MIGHT BE CONSIDERED TO ALTER** the general nature of the invention in a manner which would require the U.S. application to have been made available for inspection by the appropriate defense agencies under 35 USC 181 and 37 CFR 5.1. See 37 CFR 5.15.

III. ☐ A Response to an Invitation from the RO/US. The following document(s) is (are) enclosed:

A. ☐ A Request for an Extension of Time to File a Response.
B. ☐ A Power of Attorney (General or Regular)
C. ☐ Replacement pages:

pages		of the request (PCT/RO/101)	pages		of the figures
pages		of the description	pages		of the abstract
pages		of the claims			

D. ☐ Submission of Priority Documents

Priority document		Priority document	

E. ☐ Fees as specified on attached Fee Calculation sheet form PCT/RO/101 annex

IV. ☐ A Request for rectification under PCT 91 ☐ A Petition ☐ A Sequence Listing Diskette

V. ☒ Other (please specify): ☒ **Postcard** ☒ **Letter to Officer Kurtz with authorization to charge fees and Rule 92bis request to update agent reference number and address information**

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430.

The person signing this form is the		
	☐ Applicant	**Barmak Sani**
	☒ Attorney/Agent (Reg. No.) 45,068	Typed name of signer
	☐ Common Representative	Signature

61062579v1

TOWNSEND
and
TOWNSEND
and
CREW
LLP

Palo Alto, California
Tel 650 326-2400

Walnut Creek, California
Tel 925 472-5000

San Diego, California
Tel 858 350-6100

Denver, Colorado
Tel 303 571-4000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

COPY

May 29, 2007

VIA FACSIMILE (571 273 3201)
CONFIRMATION VIA EXPRESS MAIL

URGENT

Officer Jon Kurtz
Mail Stop PCT, Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: International Application No. PCT/US2007/009261
International Filing Date: 13 April 2007
Applicant: MAGMA DESIGN AUTOMATION, INC. *et al.*
Title: PLACEMENT-DRIVEN PHYSICAL-HIERARCHY GENERATION
Inventors: Riepe, Michael A. *et al.*
Our File Reference.: 12385 PCT

Dear Officer Kurtz:

In response to the *Notification Concerning Payment of Prescribed Fees* dated 18 May 2007, Applicants hereby authorize the U.S. Patent Office to charge the fees in the amount of **$1,942.00** to **Deposit Account No. 20-1430** for the above-referenced application. The Commissioner is hereby authorized to charge any additional fees associated with this application, or credit any overpayment, to the above deposit account.

Pursuant to Rule *92bis*, applicants respectfully request recordation of change of agent's address from "TOWNSEND and TOWNSEND and CREW LLP, 379 Lytton Avenue, Palo Alto, CA 94301" to **"TOWNSEND and TOWNSEND and CREW LLP, Two Embarcadero Center, 8th Floor, San Francisco, CA 94111"**.

Pursuant to Rule 92*bis*, Applicants also respectfully request recordation of change of *Applicant's or agent's file reference* from "12385 PCT" to **"26661-51-1PC"**.

Applicants respectfully await the Notification of the Recording of a Change, Form PCT/IB/306.

Thank you for your attention to this matter.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

Barmak Sani
Reg. No. 45,068

BXS/m6m
61062526v1

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. 2

ROBERT W. DICKERSON, ESQ.
JONES DAY
555 S. FLOWER ST.
50TH FLOOR
LOS ANGELES CA 90071

RECEIVED
APR 28 2008
JONES DAY
PATENT PROSECUTION DEPT

COPY MAILED
APR 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Jack DeLiddo	:	
Application Number: 60/414,535	:	DECISION GRANTING PETITION
Filing Date: April 22, 2006	:	
Attorney Docket Number: 988994-600001	:	

This is a decision on the petition filed on August 1, 2007, under 37 CFR 1.10(e),[1] requesting that the above-identified provisional application be accorded a filing date of April 22, 2006.

The petition is **granted**.

---

[1] 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 Commissioner 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 alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on April 22, 2006. In support, petitioner provided a copy of the Express Mail label, receipt No. EL975109902US, showing a "Date-in" of "4-22-06". The same Express Mail receipt number was referred to on the itemized PROVISIONAL APPLICATION FOR PATENT COVER SHEET submitted with the application papers, as well as the specification. Petitioner has also provided a copy of, *inter alia*, the provisional application cover sheet, five (5) pages of specification and one (1) sheet of drawings.

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.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on April 22, 2006.

The application will be processed and examined with a filing date of April 22, 2006, using the copies of the application papers supplied with the present petition.

The application is being referred to the Office of Patent Application Processing for processing with a filing date of **April 22, 2006**, using the application papers 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

---

[2] MPEP 513.

17 FEB 2009

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Commissioner for Patents
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Alexandria, VA 22313-1450
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ROSEMARIE L CELLI
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

In re Application of	:	DECISION ON
ELAN PHARMA INTERNATIONAL LIMITED	:	
PCT No.: PCT/US2007/009499	:	PETITION
Int. Filing Date: 27 July 2007	:	
Priority Date: None	:	
Attorney's Docket No.: 15270C-190-1	:	
For: TREATMENT OF AMYLOIDOGENIC DISEASES	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.182" filed 12 September 2008, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 18 April 2007, applicants filed international application papers including a Request, description, claims, and abstract. These papers were assigned international application number PCT/US2007/009499.

On 11 July 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 18 April 2007.

On 11 July 2007, the RO/US also mailed an INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE, MISSING (Form PCT/RO/107) indicating that the drawings referenced on page 9 of the description were missing. The INVITATION indicated that where the applicant furnishes to the receiving Office, after the date on which all of the requirements of Article 11(1) were fulfilled (and an international filing date has been accorded) but within the time limit indicated, the missing part so as to complete the international application, the receiving Office will correct the international filing date to the date on which it receivied that part (PCT Rule 20.5(c)). The Invitation further indicated that the time limit for responding to the invitation expires later than

12 months from the filing date of the earliest application the priority date of which is claimed and that any missing part received by the receiving Office after the expiration of this 12-month period may result not only in the international filing date being corrected but also in that priority claim being considered void for the purposes of the procedure under the PCT (Rule 26bis.2(b)), except if the international application was filed within 14 months from the filing date of the earliest application whose priority is claimed (PCT Rule 26bis.2(c)(iii)).

On 11 July 2007, the RO/US also mailed NOTIFICATION REGARDING CERTAIN CORRECTION MADE *EX OFFICIO* (Form PCT/RO/146) indicating that the RO/US had corrected formal defects in sheet number 4 of the Request. Specifically, the number of drawings was changed from "11" to –10– and the total number of pages was changed from "91" to –80–.

On 27 July 2007, applicants filed drawing sheets 1-11.

On 21 September 2007, the RO/US mailed a NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION (Form PCT/RO/126) indicating, *inter alia*, that a missing part or parts of the description, claims or drawings pertaining to the purported international application furnished by the applicant to complete the international application were received by the RO/US on 27 July 2007, that the later submitted parts were included in the application and the international filing date was corrected to 27 July 2007. The NOTIFICATION also indicated that the "applicant may, in a notice submitted to the receiving Office within one month from the date of mailing of this notification, **request that the missing part concerned be disregarded**, in which case the missing part shall be considered not to have been furnished and the correction of the international filing date shall be considered not to have been made (Rule 20.5(e))." (emphasis in original)

On 21 September 2007, the RO/US also mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating that the international filing date was now 27 July 2007.

On 21 September 2007, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY (Form PCT/RO/110) indicating that the filing date indicated for the priority application did not faill within the period of 12 months preceding the international filing date.

On 05 September 2008, the RO/US mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/RO/111) indicating that the priority claim was considered void because the applicant failed to respond to the invitation under Rule 26bis.2(a) (Form PCT/RO/110) within the prescribed time limit.

On 12 September 2008, applicants submitted the instant petition which was accompanied by, *inter alia*, declarations of facts by Tamara Tucker, Rosemarie I. Celli, Nina Ashton, and Darrell Fontenot, and a copy of a postcard receipt.

DISCUSSION

The petition urges that the drawings were filed 18 April 2007 and alternatively, that if the drawings are considered not filed 18 April 2007, the drawings filed 27 July 2007 be ignored and the filing date be restored to 18 April 2007.

Submission filed 18 April 2007

Section 503 of the Manual of Patent Examining Procedure (MPEP) states, in part:

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self - addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail....
>
> ...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.

The date-stamped postcard receipt (copy enclosed) has been annotated; the "11 pages" after "Drawings" has been lined through and replaced with a hand-written "0".

A review of the electronic application file reveals that there is no drawing pages therein filed 18 April 2007. Section 513 of the MPEP states in part:

> [W]here 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.

The declarations of Tamara Tucker and Rosemarie I. Celli have been considered. The declaration of Tamara Tucker states that she prepared the application papers, checked that all parts of the application including the drawings were present, placed the application papers in an unsealed Express Mail envelope, and handed the envelope to Rosemarie I. Celli. The declaration of Rosemarie I. Celli states that she removed the application papers from the unsealed Express Mail envelope, checked that all parts of the application including the drawings were present, placed the application papers backed in the Express Mail envelope, sealed the envelope, and

drove the correspondence to the Post Office at the San Francisco airport. However, these statements were made over 16 months after the event in question.

The declarations of Nina Ashton and Darrell Fontenot have also been considered. These declarations state that the copy of the application papers at Elan Pharmaceuticals, Inc. (Nina Ashton) (and assignee) and Wyeth (Darrell Fontenot) (also an assignee) include all eleven sheets of drawings. The declaration of Tamara Tucker discusses the procedure for sending copies of application filings to the assignees. It states that before placing the application papers in the unsealed Express Mail envelope, she prepared several copies including a copy for each of the assignees. After handing the unsealed Express Mail package to Rosemarie I. Celli, she returned to her office, clipped the client copies with binder clips, and rubber banded the two sets to the file to send to the clients. The declaration further states that it was her practice at the time to prepare packages for clients containing correspondence (including application filings) that had accumulated during the week and that to the best of her recollection, the copy of the application was prepared and mailed to Elan Pharmaceuticals, Inc. and Wyeth in the package of accumulated materials for that week. However, the copy of the application papers received by the assignees is not necessarily the same as the copy of the application papers received by the USPTO.

Moreover, the statements in the declarations of Tamara Tucker and Rosemarie I. Celli and the copy of the application file at Elan Pharmaceuticals, Inc. and Wyeth are contradicted by the annotated postcard receipt from the USPTO. The postcard receipt from the USPTO is a contemporaneous account of the contents of the Express Mail package when opened by a disinterested third party (a Federal contract employee). The annotated postcard receipt and the contents of the electronic file are not outweighed by the evidence submitted by applicants.

Submission filed 27 July 2007

The petition requests that the drawings filed 27 July 2007 be disregarded and the application be accorded its original filing date without the drawings. It is urged that applicants submitted the drawings as another copy of the drawing that had already been filed rather than as a "missing part" to be added to the application after the original filing date. However, the submission filed by applicants on 27 July 2007 was titled "TRANSMITTAL AND RESPONSE TO INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE MISSING". Thus, the title of the submission contradicts applicants' argument. The argument is not persuasive.

Moreover, on 21 September 2007, the RO/US mailed a NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION, a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE, and an INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE

RIGHT OF PRIORITY all indicating that the international filing date had been changed to 27 July 2007. The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE even indicated that the "applicant may, in a notice submitted to the receiving Office within one month from the date of mailing of this notification, **request that the missing part concerned be disregarded**, in which case the missing part shall be considered not to have been furnished and the correction of the international filing date shall be considered not to have been made (Rule 20.5(e))." (emphasis in original)

The international filing date of the instant application is 27 July 2007.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: copy of annotated postcard receipt date-stamped 18 April 2007 by the USPTO for international application PCT/US07/09499

22 JUN 2009

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ROSEMARIE L CELLI
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

In re Application of	:	DECISION ON
ELAN PHARMA INTERNATIONAL LIMITED	:	
PCT No.: PCT/US2007/009499	:	PETITION
Int. Filing Date: 27 July 2007	:	
Priority Date: None	:	
Attorney's Docket No.: 15270C-190-1	:	
For: TREATMENT OF AMYLOIDOGENIC DISEASES	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181" filed 17 April 2009. No petition fee is due.

BACKGROUND

On 18 April 2007, applicants filed international application papers including a Request, description, claims, and abstract. These papers were assigned international application number PCT/US2007/009499.

On 11 July 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 18 April 2007.

On 11 July 2007, the RO/US also mailed an INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE, MISSING (Form PCT/RO/107) indicating that the drawings referenced on page 9 of the description were missing. The INVITATION indicated that where the applicant furnishes to the receiving Office, after the date on which all of the requirements of Article 11(1) were fulfilled (and an international filing date has been accorded) but within the time limit indicated, the missing part so as to complete the international application, the receiving Office will correct the international filing date to the date on which it receivied that part (PCT Rule 20.5(c)). The Invitation further indicated that the time limit for responding to the invitation expires later than 12 months from the filing date of the earliest application the priority date of which is claimed and

that any missing part received by the receiving Office after the expiration of this 12-month period may result not only in the international filing date being corrected but also in that priority claim being considered void for the purposes of the procedure under the PCT (Rule 26bis.2(b)), except if the international application was filed within 14 months from the filing date of the earliest application whose priority is claimed (PCT Rule 26bis.2(c)(iii)).

On 11 July 2007, the RO/US also mailed NOTIFICATION REGARDING CERTAIN CORRECTION MADE *EX OFFICIO* (Form PCT/RO/146) indicating that the RO/US had corrected formal defects in sheet number 4 of the Request. Specifically, the number of drawings was changed from "11" to –10– and the total number of pages was changed from "91" to –80–.

On 27 July 2007, applicants filed drawing sheets 1-11.

On 21 September 2007, the RO/US mailed a NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION (Form PCT/RO/126) indicating, *inter alia*, that a missing part or parts of the description, claims or drawings pertaining to the purported international application furnished by the applicant to complete the international application were received by the RO/US on 27 July 2007, that the later submitted parts were included in the application and the international filing date was corrected to 27 July 2007. The NOTIFICATION also indicated that the "applicant may, in a notice submitted to the receiving Office within one month from the date of mailing of this notification, **request that the missing part concerned be disregarded**, in which case the missing part shall be considered not to have been furnished and the correction of the international filing date shall be considered not to have been made (Rule 20.5(e))." (emphasis in original)

On 21 September 2007, the RO/US also mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating that the international filing date was now 27 July 2007.

On 21 September 2007, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY (Form PCT/RO/110) indicating that the filing date indicated for the priority application did not faill within the period of 12 months preceding the international filing date.

On 05 September 2008, the RO/US mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/RO/111) indicating that the priority claim was considered void because the applicant failed to respond to the invitation under Rule 26bis.2(a) (Form PCT/RO/110) within the prescribed time limit.

On 12 September 2008, applicants submitted a petition which was accompanied by, *inter alia*, declarations of facts by Tamara Tucker, Rosemarie I. Celli, Nina Ashton, and Darrell

Fontenot, and a copy of a postcard receipt. The petition was properly treated as a petition under 37 CFR 1.181.

On 17 February 2009, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.181.

On 17 April 2009, applicants filed the instant renewed petition under 37 CFR 1.181.

DISCUSSION

The renewed petition again urges that the drawings were filed with the application papers on 18 April 2007 and alternatively, that if the drawings are not considered filed 18 April 2007, the drawings filed 27 July 2007 should be ignored and the filing date be restored to 18 April 2007.

Drawings Were Filed With the Application Papers on 18 April 2007

As noted previously, the date-stamped postcard receipt (copy enclosed) has been annotated; the "11 pages" after "Drawings" has been lined through and replaced with a hand-written "0". The renewed petition urges that a mistake was made in the USPTO contractor's handling of the application because the number of drawings was changed on the postcard from "11" to "0" while in the Request the number of drawings was changed from "11" to "10". As noted in the decision mailed 17 February 2009, the postcard receipt from the USPTO is a contemporaneous account of the contents of the Express Mail package when opened by a disinterested third party (a Federal contract employee). The notation on the Request was not made by this contract employee nor was it made at the time of opening the Express Mail package. Rather, the notation on the Request was made by Valerie Jackson (the Authorized officer listed on Form PCT/RO/146), a USPTO employee in the Office of PCT Operations, during a formalities review. Moreover, although the number of drawings was changed from "11" to "10" on page 4 of the Request by Valerie Jackson, the total number of sheets was changed from "91" to "80". Thus, while the change in the number of drawings is not consistent with the postcard receipt, the total number of sheets is consistent. Additionally, as noted previously, no drawings appear in the electronic application file. Accordingly, the evidence suggests that the only error made in annotation was changing the number of drawings from "11" to "10" on page 4 of the Request.

The renewed petition also urges that the declarations of Ms. Tucker and Ms. Celli along with the declarations of Ms. Ashton and Dr. Fontenot are convincing evidence that the drawings were received by the USPTO. Regarding the declarations of Ms. Tucker and Ms. Celli, it is urged that (1) the filing occurred during a brief period when they were in a small satellite office in which few other PCT applications were filed, that in the case of Ms. Tucker, it was the only

occasion in her career that she was recalled from home to the office in the evening to provide assistance in filing an application, (2) that Ms. Tucker prepared the drawings on the same day the application was filed making it implausible that the drawings could have simply been forgotten as might be the case if they had been prepared long ahead, and (3) both Ms. Tucker and Ms. Celli independently verified that all parts of the application including the drawings were present. As to (1) and (3), again, the declarations were made over 16 months after the date in question. Even though the general circumstances surrounding the filing may have been unusual and thus more likely to be remembered, the specific details such as the elements of the application (e.g., Request, description, claims, abstract, and drawings) and the number of pages for each of these elements are not necessarily more likely to be remembered. As to (2), preparing the drawings on the same day as the mailing of the application papers is not a guarantee that the drawings would be included.

Regarding the declarations of Ms. Ashton and Dr. Fontenot, while the copies of the application papers received by them appear to have included the drawings, this is not evidence that the application papers mailed in the Federal Express envelope included the drawings. For example, the drawings could have been misplaced by Ms. Tucker after copying but before placing them in the Express Mail envelope that was given to Ms. Celli, or the drawings could have been misplaced by Ms. Celli after removing the application papers from the envelope but before placing them back in the envelope.

If the drawings Are Considered Not Filed 18 April 2007, The Drawings Filed 27 July 2007 Should Be Ignored

The decision mailed 17 February 2009 stated that the title of the 27 July 2007 response ("TRANSMITTAL AND RESPONSE TO INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE MISSING") contradicted applicants' argument that the drawings filed 27 July 2007 were another copy of the drawings that had already been filed rather than as a "missing part" to be added to the application after the original filing date. The renewed petition urges that the title is not an admission that the drawings were missing, particularly in view of the language "or appear to be missing". Applicants' contention is accepted. Nevertheless, there is nothing in the 27 July 2007 response to suggest that the drawings were simply another copy of the drawings that had already been filed. Further, there is no indication in the 27 July 2007 response that the drawings should be disregarded if they were considered to complete the purported international application. Item 2 of Form PCT/RO/107 mailed 11 July 2007 invites applicant to either complete the purported international application by furnishing the missing part or to confirm in accordance with Rule 20.6(a) that the part was incorporated by reference under Rule 4.18. Because the 27 July 2007 submission did not confirm that the drawings were incorporated by reference, and included no other instructions or comments, it was properly treated as completing the international application. As noted previously, the NOTIFICATION OF THE INTERNATIONAL

APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE indicated that the "applicant may, in a notice submitted to the receiving Office within one month from the date of mailing of this notification, **request that the missing part concerned be disregarded**, in which case the missing part shall be considered not to have been furnished and the correction of the international filing date shall be considered not to have been made (Rule 20.5(e))" (emphasis in original). The renewed petition urges that the failure to request that the drawings be disregarded was inadvertent. However, whether inadvertent or not, a request to disregard the drawings was not timely filed.

The international filing date of the instant application is 27 July 2007.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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UNITED STATES PATENT AND TRADEMARK OFFICE

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18 JAN 2008

Mark J. Pandiscio
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Waltham MA 02451-1914

In re Application of: IBALANCE MEDICAL, INC.
PCT Application No.: PCT/US2007/009512
International Filing Date: 19 April 2007
Attorney Docket No.: NOVAK-1218PCT
For: METHOD AND APPARATUS FOR PERFORMING MULTIDIRECTIONAL TIBIAL TUBERCLE TRANSFERS

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is responsive to the Response filed 18 October 2007, which has been treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 April 2007 (19.04.2007) the application papers were filed, including thirty-nine (39) drawing sheets containing figures 1-21 and 27-44.

On 28 June 2007 (28.06.2007) the RO/US mailed an Invitation Relating to Certain Parts of the International Application That are, or Appear to be, Missing (Form PCT/RO/107). The Invitation indicated that reference to drawings that appear to be missing was made on page 6 [of the description]. Applicant was invited to complete the purported international application by furnishing the missing part(s) within two months.

On 31 August 2007 (31.08.2007) a Response to the invitation was received, which indicated that "Figs. 1-44 on forty-four (44) sheets of drawings" were enclosed, however, the RO/US received thirty-nine (39) drawing sheets containing figures 1-21 and 27-44. The missing drawings (containing figures 22-26) were not furnished to this receiving Office within the prescribed two-month time limit.

On 03 October 2007 (03.10.2007) the RO/US mailed a Communication, which indicated that any reference to the missing drawings, containing figures 22-26, in the international application would be considered non-existent (Article 14(3)).

On 18 October 2007 (18.10.2007) a petition under 37 CFR 1.181 was received, which included, *inter alia*, a copy of a postcard receipt for the international application filed 19 April

2007. The postcard receipt indicates forty-four (44) drawing sheets and identifies the applicant, attorney docket number, international application number, and date of receipt. The petition further included a copy of the purported five (5) missing drawing sheets containing figures 22-26.

DISCUSSION

Petitioner asserts that forty-four sheets of drawings were submitted with the international application papers, but the Office records indicate receipt of only thirty-nine sheets of drawings with the international application papers.

Where there is a dispute as to the contents of correspondence submitted to the Office and the records of the Office 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 (see MPEP § 513(VII)).

The copy of the purported five (5) missing drawing sheets is not accompanied by a statement that the copy of the drawing sheets is a true copy of the drawing sheets originally submitted 19 April 2007. It is noted that the copy of the purported five (5) missing drawing sheets containing figures 22-26 are of different characteristic and quality than the other thirty-nine (39) drawing sheets filed 19 April 2007.

CONCLUSION

For the reasons above the petition is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Bryan Lin
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Copy to:

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20 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: IBALANCE MEDICAL, INC.
PCT Application No.: PCT/US2007/009512
International Filing Date: 19 April 2007
Attorney Docket No.: NOVAK-1218PCT
For: METHOD AND APPARATUS FOR PERFORMING MULTIDIRECTIONAL TIBIAL TUBERCLE TRANSFERS

DECISION ON PETITION UNDER 37 CFR 1.181

This Decision is in response to the Renewed Petition under 37 CFR 1.181 received 21 March 2008. No petition fee is required.

BACKGROUND

On 18 October 2007 a petition under 37 CFR 1.181 was received, which included, *inter alia*, a copy of a postcard receipt for the international application filed 19 April 2007. The postcard receipt indicates forty-four (44) drawing sheets and identifies the applicant, attorney docket number, international application number, and date of receipt. The petition further included a copy of the purported five (5) missing drawing sheets containing figures 22-26.

On 18 January 2008 the Office mailed a decision that dismissed the petition and set a two-month period for reconsideration.

On 21 March 2008 a renewed petition was received. The renewed petition has been considered even though it was received after the expiration of the two-month period for reconsideration set in the decision mailed 18 January 2008.

DISCUSSION

Under item (6) of the petition, petitioner asserts that another copy of figures 22-26 on five (5) sheets of drawings are submitted with the petition together with a statement that the enclosed copy of figures 22-26 is a true copy of the five (5) sheets of drawings originally filed on 19 April 2007. However, the five (5) drawing sheets were not received with the renewed petition.

CONCLUSION

For the reasons above the petition is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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17 SEP 2008

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In re Application of: IBALANCE MEDICAL, INC.
PCT Application No.: PCT/US2007/009512
International Filing Date: 19 April 2007
Attorney Docket No.: NOVAK-1218PCT
For: METHOD AND APPARATUS FOR PERFORMING MULTIDIRECTIONAL TIBIAL TUBERCLE TRANSFERS

DECISION ON PETITION UNDER 37 CFR 1.181

This Decision is in response to the Renewed Petition under 37 CFR 1.181 received 26 June 2008. No petition fee is required.

BACKGROUND

On 18 October 2007 a petition under 37 CFR 1.181 was received, which included, *inter alia*, a copy of a postcard receipt for the international application filed 19 April 2007. The postcard receipt indicates forty-four (44) drawing sheets and identifies the applicant, attorney docket number, international application number, and date of receipt. The petition further included a copy of the purported five (5) missing drawing sheets.

On 18 January 2008 the Office mailed a decision that dismissed the petition and set a two-month period for reconsideration.

On 21 March 2008 a renewed petition was received. The renewed petition has been considered even though it was received after the expiration of the two-month period for reconsideration set in the decision mailed 18 January 2008.

On 20 May 2008 the Office mailed a decision that dismissed the petition.

On 26 June 2008 the present renewed petition was received. The present petition included a copy of five (5) drawing sheets, which together with the thirty-nine (39) drawing sheets contained in the application file constituted forty-four (44) drawing sheets. The petition further included a statement that the copy is a true copy of five (5) of the drawing sheets originally filed on 19 April 2007.

DISCUSSION

The evidence of record is sufficient to establish that forty-four (44) drawing sheets were filed with the international application on 19 April 2007. Specifically, the copy of the return postcard, which includes forty-four (44) drawing sheets in its itemized contents and which bears a USPTO date stamp of 19 April 2007, serves as *prima facie* evidence that forty-four (44) drawing sheets were received by the USPTO on 19 April 2007. The five (5) drawing sheets submitted 26 June 2008 were accompanied by a statement that they are a true copy of the five (5) drawing sheets together with the statement that they are a true copy of five (5) of the forty-four (44) drawing sheets that were originally filed on 19 April 2007.

The forty-four (44) drawing sheets consist of the thirty-nine (39) drawing sheets contained in the application file as received on 19 April 2007 and the five (5) drawing sheets submitted 26 June 2008.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

This application is being forwarded to the United States receiving Office (RO/US) for further processing, including treating the five (5) sheets of drawings submitted with the present petition on 26 June 2008 as being originally filed drawing sheets.

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14 SEP 2007

Donald R. Studebaker
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In re Application of	:	
MITSUBISHI CABLE INDUSTRIES, LTD.	:	DECISION ON
PCT No.: PCT/US07/10112	:	RENEWED PETITION
Int. Filing Date: 25 April 2007	:	UNDER 37 CFR 1.182
Priority Date: 24 April 2006	:	
Attorney's Docket No.: 740819-1186	:	
For: EXHAUST SYSTEM	:	

This decision is issued in response to applicant's "Response to the Decision on Petition under 37 CFR 1.182 and Resubmission of Applicant's Statement for Restoration of the Right of Priority and Petition under 37 CFR 1.182" filed in the United States Patent and Trademark Office (USPTO) on 12 September 2007.

BACKGROUND

On 25 April 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a petition under 37 CFR 1.182 to restore the right of priority to JP application number 2006-118729 filed 24 April 2006 and JP application number 2006-118728 filed 24 April 2006 under PCT Rule 26*bis*.1(a).

In a decision dated 15 August 2007, applicant's Request for Restoration of the Right of Priority under 37 CFR 1.182 was dismissed without prejudice for failing to include a statement that the delay in filing the international application within the priority period was unintentional.

On 16 August 2007, the International Bureau mailed "Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/IB/316)."

On 12 September 2007, applicant filed "Response to the Decision on Petition under 37 CFR 1.182 and Resubmission of Applicant's Statement for Restoration of the Right of Priority and Petition under 37 CFR 1.182."

DISCUSSION

Under the *Interim Procedure for Implementing the April 1, 2007, Changes to the Regulations Under the Patent Cooperation Treaty and Status of Proposed Fee Changes*

(posted at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/pct_interim_procedures.pdf), the USPTO will treat request for restoration of the right of priority under the provisions of 37 CFR 1.182. A grantable requests for restoration of the right of priority must be filed within two months from the date of expiration of the priority period as defined by new PCT Rule 2.4, and must be accompanied by: (i) the requisite fee for a petition under 37 CFR 1.182 as set forth in 37 CFR 1.17(f); (ii) a notice under PCT Rule 26bis.1(a) adding the priority claim, if the priority claim in respect of the earlier application is not contained in the international application; and (iii) a statement that the delay in filing the international application within the priority period was unintentional.

Items (i) and (ii) have been satisfied.

As to item (iii), applicant's present request includes a statement that the entire delay in filing the international application was unintentional. Therefore, item (iii) has been satisfied and applicant's request for restoration of right of priority is granted.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision; namely (1) the addition of priority claims of JP application number 2006-118729 filed 24 April 2006 and JP application number 2006-118728 filed 24 April 2006; (2) the preparation and mailing of a corrected "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) indicating a priority date of 24 April 2006; and (3) forwarding a copy of this decision to the International Bureau.

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cc: International Bureau of WIPO
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06 DEC 2007

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MICHAEL J. BERCHOU
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3400 HSBC CENTER
BUFFALO, NY 14203

In re Application of	:	
SHAPEWRITER Inc.	:	
PCT App. No.: PCT/US2007/010280	:	DECISION ON
Int'l Filing Date: 27 April 2007	:	
Priority Date: None	:	PETITION
Attorney Docket No.: 24320.0	:	
For: SYSTEM AND METHOD FOR PREVIEW AND SELECTION OF WORDS	:	UNDER 37 CFR 1.182

This decision is in response to applicant's petitions to change the International Search Authority, filed with the United States Patent and Trademark Office on 19 June 2007, 21 June 2007, 09 November 2007 and 13 November 2007.

BACKGROUND

On 27 April 2007, applicant filed *inter alia* a request, a fee calculation sheet, drawings, abstract, claims and a description. In the Request, applicant selected ISA/US.

On 19 June 2007 and 21 June 2007, applicant filed a requesst to change the ISA to ISA/EP. Applicant authorized the additional search fee, but did not pay a petition fee for the request to be considered.

On 09 November 2007 and 13 November 2007, applicant filed requests to change the international searching authority to ISA/KIPO. Applicant requested that the excess search fee be refunded to the deposit account, but again, did not authorize payment of the petition fee.

DISCUSSION

As applicant did not authorize payment of the fee for a petition under 37 CFR 1.182, applicant's petitions to change the international search authority have not been considered on the merits.

Further, work by the International Searching Authority has commenced.

CONCLUSION

The petition under 37 CFR 1.182 to change the international searching authority is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being referred to ISA/US for continued processing.

/Erin P. Thomson/

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UNITED STATES PATENT AND TRADEMARK OFFICE

08 JAN 2008

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In re Application of :
INTERNATIONAL RECTIFIER CORPORATION :
PCT No.: PCT/US07/10761 : DECISION UNDER
Int. Filing Date: 03 May 2007 : 37 CFR 1.10(c)
Priority Date: 04 May 2006 :
Agent's File Reference: 3247(2-6135) :
For: METHOD AND APPARATUS FOR IMPROVING :
LIGHT LOAD EFFICIENCY IN SWITCHING POWER
SUPPLIES

This is in response to applicants' 13 August 2007 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US07/10761 be corrected from 21 May 2007 to 03 May 2007 and that the earliest priority date be corrected from 02 May 2007 to 04 May 2006. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" and an (Form PCT/RO/105 mailed 20 July 2007), International Application No. PCT/US07/10761 was accorded a filing date of 21 May 2007 and an earliest priority date of 02 May 2007 by the United States Receiving Office (RO/US). Also, the "INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY" (Form PCT/RO/110 mailed 20 July 2007) informed applicants that the filing date of the earlier application did not fall within the period of 12 months prior to the international filing date.

On 13 August 2007, the present petition was filed requesting that International Application No. PCT/US07/10761 be accorded a filing date of 03 May 2007 pursuant to the "Express Mail" provisions under 37 CFR 1.10 and that the Form PCT/RO/105 be corrected to indicate 04 May 2006 as the earliest priority date.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10(c)(1). "Express Mail" Label No. EV343725708US was indicated on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(c)(2). The copy of "Express Mail" Label No. EV343725708US filed with the present petition indicates that the "Date In" is 03 May 2007. 37 CFR 1.10(c)(3). Additionally, the "Track & Confirm" database of the USPS indicates that the date of deposit is 03 May 2007. Accordingly, correction of the international filing date to 03 May 2007 is appropriate. Furthermore, the PCT Request in Box No. VI-1 indicates that the earliest priority date claimed is 04 May 2006.

CONCLUSION

For the above reasons, the request to correct the filing date and earliest priority date is **GRANTED**. The Form PCT/RO/105 and the Form PCT/RO/110 mailed 20 July 2007 are hereby **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating an 03 May 2007 international filing date are being sent to the International Bureau.

Boris Milef
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Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
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JSF/BM:jf

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Enclosures: a copy of corrected Form PCT/RO/105 and a copy of the corrected copy of first page of the PCT Request.

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24 SEP 2008

ROSS T. ROBINSON
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DALLAS TX TEXAS 75201

In re Application of:
VANHOOSE, Tom, M., et al.
PCT No.: PCT/US2007/010834
Date of Receipt: 04 May 2007
Priority Date Claimed: 04 May 2006
Atty Docket No.: 47457-P001WO
For: METHOD OF AND APPARATUS FOR HYDROGEN ENHANCED DIESEL ENGINE PERFORMANCE

DECISION

This decision is issued in response to applicant's "Notice Of Withdrawal" filed 28 April 2008, which requests withdrawal of the present international application. No petition fee is required.

BACKGROUND

On 04 May 2007, applicants filed materials to initiate the present international application including, among other materials, a Request (Form PCT/RO/101) and required fees.

On 15 November 2007, the international application was published by the International Bureau (IB).

On 28 April 2008, applicant filed the "Notice Of Withdrawal" (Form PCT/IB/372) considered herein.

On 01 July 2008, the United States International Searching Authority (ISA/US) mailed the "International Search Report" (Form PCT/ISA/210) and the "Written Opinion Of The International Searching Authority" (Form PCT/ISA/237).

DISCUSSION

The "Notice of Withdrawal" (Form PCT/IB/372) filed 28 April 2008 requests withdrawal of the present international application pursuant to PCT Rule 90bis.1. The form was executed by Ross T. Robinson, the agent who signed the PCT Request (Form PCT/RO/101) filed 04 May 2007. However, as expressly stated on the Notice of Withdrawal form, "in order for the withdrawal to be effective, the notice of withdrawal must be signed by (all) the applicant(s), their appointed agent or appointed common representative." In the present application, Ross T. Robinson has not submitted Power of Attorney forms from either of the two applicant/inventors.

Accordingly, on the present record, Mr. Robinson is not the "appointed agent" in the present application.

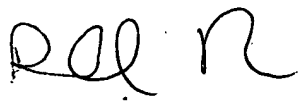
An acceptable Power of Attorney(s) executed by the two applicant/inventors and appointing Mr. Robinson as agent of record herein must be submitted before the present request to withdraw the international application can be effective. Until such a Power of Attorney(s) is provided, the request to withdraw the international application is not appropriately granted.

CONCLUSION

For the reasons discussed above, the request for withdrawal of the present international application is **DISMISSED** without prejudice.

An effective Power of Attorney(s) executed by the applicant/inventors and appointing Mr. Robinson as their agent herein is required before the request for withdrawal can be effective.

Please direct further correspondence with respect to the request for withdrawal or the refund request to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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28 JAN 2008

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In re Application of :
Bright, David E. :
PCT No.: PCT/US2007/011006 :
Int. Filing Date: 07 May 2007 :
Priority Date: 11 May 2006 DECISION
Atty. Docket No.: BRI-1-PCT :
For: Goniometer for Measuring :
Flexibility and Associated Method :
:

This is in response to the "Request for Reconsideration of Denial of Refund" filed 10 January 2008.

BACKGROUND

On, 07 May 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On, 15 August 2007, a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) was mailed to applicant.

On, 17 August 2007, applicant filed a request for refund in the amount of $700.00.

On, 06 September 2007, the RO/US mailed a Communication In Cases For Which No Other Forms Is Applicable,(Form PCT/RO/132) denying applicant's request for a refund.

On, 10 December 2007, applicant filed the present request for reconsideration .

DISCUSSION

In order to receive the lower search fee for a corresponding prior U.S. national application with an unknown application number, the applicant must provide the filing date, title, name of applicant (and preferably the application docket number) at the time of filing the international application. A review of the application filed reveals that the application papers omitted either the title, name of applicant, or both. The applicant had not submitted an international application in compliance with 37 CFR 1.445(a) (2) (i), therefore the search fee is $1000.00. Therefore, applicant is not entitled to a refund in the amount of $700.00.

CONCLUSION

For the reasons above, the renewed request for refund is **DISMISSED** without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed with TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of	:	
DOREMI LABS, INC.	:	DECISION
PCT No.: PCT/US2007/011569	:	
Int. Filing Date: 14 May 2007	:	
Priority Date: 12 May 2006	:	
Attorney's Docket No.: 221988-5	:	
For: METHOD AND APPARATUS FOR SERVING AUDIOVISUAL CONTENT	:	

This decision is in response to applicant's submission filed 19 October 2007, which has properly been treated as a petition under 37 CFR 1.10(c).

BACKGROUND

On 11 October 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating an international filing date of 15 May 2007.

On 11 October 2007, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY (Form PCT/RO/110) indicating, *inter alia*, that the filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 19 October 2007, applicant submitted the instant petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label #EV528200164US. The "Date In" on the mailing label is "51407".

DISCUSSION

Although Form PCT/RO/105 indicated the international filing date of the above-identified application as 15 May 2007, the evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail Post Office to Addressee" mailing on 14 May 2007.

Specifically, the "Express Mail" label number ("EV528200164US") appears on the cover letter letter, which also refers to, *inter alia*, an international application and lists the above-identified attorney docket number and title. As discussed above, the copy of the Customer Copy of this "Express Mail" label shows a "Date In" of 14 May 2007.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(c) requesting that the application papers be accorded an international filing date of 14 May 2007 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 11 October 2007 is hereby **VACATED**.

The INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY (Form PCT/RO/110) mailed 11 October 2007 is also **VACATED**.

The application is being returned to the RO/US for continued processing.

Daniel Stemmer
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PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

16 SEP 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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David M. Driscoll
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321 South Main Street
Providence, RI 02903

In re Application of	:	
RHETT NANSON	:	
PCT No.: PCT/US07/11725	:	DECISION ON
Int. Filing Date: 16 May 2007	:	REQUEST FOR REFUND
Priority Date: 17 May 2006	:	UNDER 37 CFR 1.446
Agent's File Reference: 02853-1WO	:	
For: MOORING BUOY COVER	:	

This decision is in response to applicant's communication filed 10 July 2007. Applicant's communication has been treated as a petition under 37 CFR 1.446 for the refund of purported excess search fees in the amount of $700. The petition is **DISMISSED.**

BACKGROUND

On 16 May 2007, applicant filed international application PCT/US07/11725. Applicant claimed priority to a U.S. provisional application filed 17 May 2006 as well as to a U.S. non-provisional application filed 08 May 2007. The non-provisional application was not identified by the name of applicant or the agent's file reference number.

On 19 June 2007, the United States Receiving Office (RO/US) charged additional search fees in the amount of $700 to counsel's Deposit Account No. 19-0120 as authorized in the Fee Calculation Sheet filed with the original application papers.

On 02 November 2007, applicant filed the present petition requesting a refund of purported excess search fees in the amount of $700.

DISCUSSION

37 CFR 1.445(a)(2)(i) provides that:

"If a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under section 1.16(a) has been filed and the corresponding prior United States National application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application.....$300.

***

A review of the PCT Request and the application papers as originally filed reveals that the priority application indicated in Box No. VI, item (2) was not, in the absence of the application number, identified by the name of the applicant. Therefore, applicant has not satisfied the conditions set forth in 37 CFR 1.445(a)(2)(i) for a reduced search fee. Accordingly, applicant's petition for a refund in the amount of $700 cannot be granted.

CONCLUSION

For the above reasons, the petition for refund is **DISMISSED without prejudice.**

Applicant is hereby accorded ONE (1) MONTH from the mailing date of this decision to file a response. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.446".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/RC:jf

(571) 272-3284

22 JUN 2007

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Douglas W. Rudy
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In re Application of :
JOLLY, Timothy :
PCT No.: PCT/US07/12437 : DECISION ON PETITION
Rec. Date: 25 May 2007 : UNDER 37 CFR 1.10(e)
Priority Date: None :
Attorney Docket No.: Jolly-PCT-1 :
For: INTERNET-BASED MARKETING, PRODUCTIVITY ENHANCEMENT AND REFERRAL SYSTEM :

This decision is issued in response to applicant's "Petition to Assign International Application Number and Filing Date to PCT Application" filed 18 June 2007, which is being treated as a petition under 37 CFR 1.10(e). No petition fee is required.

On 25 May 2007, applicant filed the present international application with the United States Patent and Trademark Office (USPTO), which included: 4 page PCT Request; 22 pages of description; 1 page of claims; 1 page abstract; and 24 sheets of drawings.

On 18 June 2007, applicant filed the present petition under 37 CFR 1.10(e).

The papers filed by applicant on 25 May 2007 have been received and processed by the USPTO and assigned the present application number, PCT/US07/12437. Accordingly, the petition under 37 CFR 1.10(e) is **DISMISSED** as moot.

This application is being returned to the RO/US for further processing in accord with this decision.

Anthony Smith

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In re Application of: FORDHAM UNIVERSITY et al.
PCT Application No.: PCT/US2007/012752
International Filing Date: 29 May 2007
Priority Date: 30 March 2006
Attorney Docket No.: 64862PCT (54088)
For: PHOTOCATALYTIC ELECTRODE AND FUEL CELL

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is responsive to the communication entitled " Request to Restore Right of Priority by Receiving Office Pursuant to PCT Regulation 26*bis*.3" filed 29 May 2007 (29.05.2007), which has been treated as a petition under 37 CFR 1.182. Authorization has been given and the requisite $400.00 petition fee has been charged to Deposit Account No. 04-1105.

BACKGROUND

Box VI item (1) of the Request indicated priority claim to earlier U.S. application 11/393630, filed 30 March 2006 (30.03.2006).

The present petition was filed with the application papers 29 May 2007 (29.05.2007). The petition included a statement that the delay in filing the international application within the priority period was unintentional and was accompanied by authorization to charge Deposit Account No. 04-1105 in the amount of $400.00.

DISCUSSION

In accordance with the United States Patent and Trademark Office Interim Procedures for Implementing the April 1, 2007 Changes to the Regulations under the Patent Cooperation Treaty and Status of Proposed Fee Changes, a request to restore the right of priority must be filed within two months from the date of expiration of the priority period as defined in PCT Rule 2.4, and must be accompanied by: (i) the petition fee; (ii) a notice under PCT Rule 26*bis*.1(a) adding the priority claim, if the priority claim is respect of the earlier application is not contained in the international application; and (iii) a statement that the delay in filing the international application within the period was unintentional.

The priority period expired Friday, 30 March 2007 (30.03.2007). The present petition requesting restoration of the right of priority was filed on 29 May 2007 (29.05.2007), within two months from the date of expiration of the priority period.

Regarding items (i) and (iii), the petition included the $400.00 petition fee and a statement that the delay in filing the international application within the period was unintentional. Regarding item (ii), the priority claim was contained in the international application on the Request at Box VI item (1).

CONCLUSION

For reasons above, applicant's petition requesting restoration of the right of priority to earlier application 11/393630 is GRANTED.

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Richard Cole
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Office of PCT Legal Administration

Copy to:
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UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 06 2007
NIXON PEABODY LLP

COPY MAILED
JUN 04 2007
OFFICE OF PETITIONS

In re Application of :
Simonelli et al. :
Application No. 60/809345 :
Filing or 371(c) Date: 05/31/2006 :
Attorney Docket Number: : DECISION
032228-130099 : ON PETITION

This is a decision on the "Petition in Response to Notice of Incomplete Provisional Application", filed August 14, 2006, requesting the above-identified application be accorded a filing date of May 31, 2006. The delay in treating this petition is regretted.

The petition is granted.

The application was filed on May 31, 2006. On June 27, 2006, 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 fourteen (14) sheets of drawings were filed in the application on May 31, 2006. In support of this assertion, Applicant files a copy of his return-receipt postcard acknowledging receipt of fourteen (14) sheets of drawings (Figs. 1-16) by this Office on May 31, 2006.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

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

A refund of the petition fee has been credited to Petitioner's deposit account as authorized in the petition.

The copy of fourteen (14) sheets of drawings (Figs. 1-16), filed with the instant petition, will be used for examination purposes.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of May 31, 2006, and an indication that fourteen (14) sheets of drawings (Figs. 1-16), were present on May 31, 2006, using the fourteen (14) sheets of drawings (Figs. 1-16), filed with the present petition on August 14, 2006.

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

Derek L. Woods
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Office of Petitions

29 SEP 2008

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In re Application of	:	
E-Z MEDIA, Inc.	:	DECISION
PCT No.: PCT/US2007/012870	:	
Int. Filing Date: 30 May 2007	:	ON PETITION UNDER
Priority Date: 30 May 2006	:	
Docket No.: 33171-2201	:	37 CFR 1.181
For: CARRIER AND METHOD	:	

This decision is in response to applicant's petition to correct the international filing date, filed in the United States Patent and Trademark Office on 24 March 2008.

BACKGROUND

On 30 May 2007, applicant filed international application PCT/US2007/012870 via Express Mail.

On 26 October 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 30 May 2007 and an Invitation Relating to Certain Parts of the International Application That Are, Or Appear To Be, Missing (Form PCT/RO/107) indicating that page 7 of the claims appeared to be missing.

On 19 December 2007, applicant filed a copy of page 7 of the claims in response to the Invitation.

On 16 January 2008, the Office mailed Notification Concerning Later Submitted Parts of an International Application (Form PCT/RO/126) indicating that the international filing date had been changed to 19 December 2007 in accordance with receipt of the omitted part and if applicant wished the Office to disregard the part and to return the international filing date to the original date, applicant should notify the Office within one month.

On 24 March 2008, applicant submitted this petition to change the international filing date of the application back to 30 May 2007 and to accept page 7 of the claims as having been filed on 30 May 2007.

DISCUSSION

MPEP at section 503 states, in part:

> 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.

Applicants have furnished a postcard receipt listing *inter alia*, 7 pages of claims. The postcard identifies this application by attorney docket number. The postcard is stamped "30 May 2007" by the Office. Page 7 of the claims is accepted as having been originally received on 30 May 2007.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date to 30 May 2007 and to include all 7 pages of claims is **GRANTED**.

The Notification Concerning Later Submitted Parts of an International Application (Form PCT/RO/126) mailed 16 January 2008 is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

/Erin P. Thomson/

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cc: International Bureau
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Enc: Claims, page 7

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In re Application of	:	DECISION ON
US SYNTHETIC CORPORATION	:	
PCT No.: PCT/US2007/012879	:	PETITION
Int. Filing Date: 31 May 2007	:	
Priority Date: None	:	
Attorney's Docket No.: 2636-001-04	:	
For: SEPARATION DEVICE . . . AND METHODS OF USE	:	

This decision is in response to applicant's "REQUEST FOR RECTIFICATION OF AN OBVIOUS MISTAKE Rule 91" filed on 25 September 2008.

BACKGROUND

On 17 September 2007, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application and international filing date of 31 May 2007. This Form did not indicate a priority date.

On 18 August 2005, applicants submitted the instant "REQUEST FOR RECTIFICATION OF AN OBVIOUS MISTAKE Rule 91".

DISCUSSION

The submission filed 25 September 2008 requests that the priority claim to United States Provisional Application No. 60/832,579 filed 02 August 2006 be acknowledged. Applicant urges that although page 3 of the Request filed 31 May 2007 which included the priority claim was inadvertently omitted when the application was filed, the priority claim should be rectifiable because the first paragraph of the specification claims benefit to 60/832,579 and the Transmittal Letter filed 31 May 2007 indicated this provisional application as a "prior U.S. application".

PCT Rule 91.1(g)(4) indicates that a mistake shall not be rectifiable under PCT Rule 91.1 if "the mistake is in a priority claim . . ., where the rectification of the mistake would cause a change in the priority date". Here, the requested rectification would cause a change in the priority date. Accordingly, the change requested cannot be rectified under PCT Rule 91.1

Additionally, PCT Rule 4.10(a) indicates that any "priority claim shall be made in the request". As noted above, the priority claim did not appear in the Request.

CONCLUSION

For the reasons set forth above, the request under PCT Rule 91.1 is **REFUSED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being forwarded to PCT Central Files for storage.

/Daniel Stemmer/

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OFFICE OF PETITIONS

In re Application of	:	
David A. Hinds et al	:	
Application No. 60/811,465	:	DECISION GRANTING
Filed: June 5, 2006	:	PETITION
Attorney Docket No. 020654-001800US	:	

This is a decision on the petition, filed July 12 2006, requesting that the above-identified application be accorded a filing date of June 5, 2006, rather than the presently accorded date of June 6, 2006. 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 June 5, 2006. In support of this allegation, the petition is accompanied by a copy of Express Mail receipt No. EV656871733US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 5, 2006, as well as a USPS stamped receipt date of June 5, 2006, and a USPS track confirm record which discloses that the Express Mail package in question was accepted at the San Francisco, CA, USPS on June 5, 2006.

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 June 5, 2006.

In view of the above, the petition is **GRANTED**. This application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **June 5, 2006** and for mailing of a corrected Filing Receipt.

Telephone inquiries relating to this decision should be directed the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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In re Application of:
PERLEGEN SCIENCES, INC.
PCT Application No.: PCT/US2007/013314
International Filing Date: 03 June 2007
Priority Date: 05 June 2006
Atty Docket No.: 020654-001810US
For: GENETIC BASIS OF TREATMENT RESPONSE IN DEPRESSION PATIENTS

CORRECTED
DECISION ON PETITION

A previous version of this decision was mailed on 08 November 2007. However, such decision listed the wrong international application number in the caption (the decision identified the international application as PCT/US2006/008464, rather than PCT/US07/013314). The present decision corrects the caption to indicate the correct international application; the remainder of the below decision has not been modified.

This decision is issued in response to the correspondence filed by applicant on 27 September 2007, treated herein in part as a petition under 37 CFR 1.10(d) to correct the international filing date. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a transmittal letter that identified the "Express Mail" label number as EV529830630US and indicated that the date of deposit was 05 June 2007.

On 28 August 2007, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 03 June 2007.

On 27 September 2007, applicant filed correspondence that included a request to correct the international filing date to 05 June 2007, considered herein as a petition under 37 CFR 1.10. The petition is accompanied by a copy of the customer receipt for "Express Mail" label number EV529830630US; this receipt bears a "date in" of 03 June, as well as a separate USPS stamp dated 05 June (it is noted that the "date in" does not include a year, and the year listed in the separate date stamp is illegible).

DISCUSSION

As noted above, the RO/US has accorded the present application an international filing date of 03 June 2007. This date corresponds to the "date in" entered by the USPS on the "Express Mail" envelope in which the application was filed, as evidenced by the copy of the "Express Mail" label provided by applicant with the present petition.

Applicant asserts that the "Express Mail" envelope containing the application materials was actually filed on 05 June 2007 and that the proper international filing date is therefore 05 June 2007. Applicant relies on the 05 June date stamp entered on the "Express Mail" label by the USPS as evidence for the requested filing date correction; however, the petition does not address the discrepancy between the 03 June "date-in" entered by the USPS and the separate 05 June date stamp.

37 CFR 1.10(d) sets forth the requirements for a grantable petition in such circumstances:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition was promptly filed, and the transmittal letter included with the original application papers set forth the "Express Mail" label number. Accordingly, items (1) and (2) are satisfied.

With respect to item (3), applicant has supplied a copy of the "Express Mail" mailing label and a statement from counsel that the application was filed on 05 June 2007. As noted above, the "date in" entered by the USPS on this label is 03 June, but the label also bears a USPS stamp dated 05 June. The USPS stamp dated 05 June is corroborating evidence form the USPS in support of applicant's assertion that the correct deposit date is 05 June 2007, as required under 37 CFR 1.10(d)(3); however, absent further information, it cannot be determined which of the

two USPS notations is correct (i.e., the 03 June "date in" or the 05 June date stamp). Before it can be concluded that the proper deposit date herein is 05 June 2007, applicant must provide further evidence to resolve this contradiction, for example, a firsthand statement from the person who deposited the "Express Mail" envelope with the USPS confirming the 05 June 2007 deposit date, and/or USPS tracking information confirming the date of deposit.[1]

Absent further information, it cannot be concluded that the correct date of deposit for this "Express Mail" envelope is 05 June, as indicated in the USPS date stamp, as opposed to 03 June, as indicated in the "date in" entered by the USPS. Item (3) has therefore not been satisfied. Accordingly, on the present record, correction of the international filing date to 05 June 2007 is not appropriate.

CONCLUSION

The petition for correction of the international filing date is **DISMISSED** without prejudice. The international filing date remains **05 June 2007**.

If reconsideration on the merits is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include additional materials sufficient to confirm that the "Express Mail" envelope in which the present application was deposited with the USPS on 05 June 2007, as discussed above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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[1] It is noted that the petition includes a statement from counsel that the application was filed on 05 June 2007, but it is not clear whether the attorney signing the petition is the person who made the deposit with the USPS and therefore has the firsthand knowledge required to confirm such deposit.

UNITED STATES PATENT AND TRADEMARK OFFICE

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16 JAN 2008

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In re Application of:	
PERLEGEN SCIENCES, INC.	
PCT Application No.: PCT/US2007/013314	DECISION ON RENEWED
Receipt Date: 05 June 2007	PETITION UNDER
Priority Date: 05 June 2006	37 CFR 1.10(d)
Atty Docket No.: 020654-001810US	
For: GENETIC BASIS OF TREATMENT RESPONSE IN DEPRESSION PATIENTS	

This decision is issued in response to the correspondence filed herein on 10 January 2008, treated herein as a renewed petition to correct the international filing date under 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the "Corrected Decision On Petition" mailed herein on 20 November 2007. That decision dismissed without prejudice applicant's petition to correct the international filing date to 05 June 2007 for failure to satisfy all the requirements of under 37 CFR 1.10(d). Specifically, applicant had not provided evidence to resolve the conflict between the 03 June "date in" and the 05 June date stamp entered by the USPS on the "Express mail" label.[1]

On 10 January 2008, applicant filed the renewed petition considered herein.

DISCUSSION

The renewed petition includes, among other materials, a copy of the USPS tracking data with respect to the relevant "Express Mail" envelope. This tracking data indicates that the envelope was accepted by the USPS on 05 June 2007. This tracking data, in combination with the statements in the petition and 05 June 2007 date stamp entered by the USPS on the "Express Mail" label, provides an adequate showing that the "Express Mail" envelope containing the present international application was deposited with the USPS on 05 June 2007. Accordingly, applicant has satisfied the remaining element of a grantable petition; pursuant to 37 CFR 1.10, the appropriate filing date for the international application materials is 05 June 2007.

[1] It is noted that the conclusion of the previous decision included a typographical error indicating that the international filing date "remains 05 June 2007." This statement should have read "remains 03 June 2007," as evident from the remainder of the decision.

CONCLUSION

The renewed petition under 37 CFR 1.10(d) is **GRANTED.** The international filing date is corrected to **05 June 2007.**

The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 28 August 2007, which identified the international filing date as 03 June 2007, is hereby **VACATED.**

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105), which properly identifies the international filing date as 05 June 2007, is mailed herewith.

The application is being referred to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A copy of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

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cc: International Bureau of the WIPO

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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21 DEC 2007

JENNIFER A. CALCAGNI
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In re Application of YALE UNIVERSITY	DECISION ON
PCT No.: PCT/US07/13463	
Int. Filing: 07 June 2007	PETITION
Priority Date: 08 June 2006	
Attorney Docket No.: 26068-38B	UNDER 37 CFR 1.10(d)
For: MULTI STAGE COLUMN DISTILLATION (MSCD) METHOD FOR OSMOTIC SOLUTE RECOVERY	

This decision is in response to applicant's "Response to Notification of the International Application Number and of the International Filing Date" treated as a Petition Requesting Correction of Filing Date under 37 CFR 1.10(d), filed in the United States Patent and Trademark Office (USPTO) on 19 September 2007, to accord a filing date of 07 June 2007 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/13463 with the United States Receiving Office, claiming a priority date of 08 June 2006 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 06 June 2007.

On 20 August 2007, the Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) was mailed.

On 19 September 2007, applicant filed the present request, including, *inter alia*, a copy of the United States Postal Service (USPS) Customer Receipt of the "Express Mail" mailing label and USPS Track and Confirm Statement.

DISCUSSION

Where, as here, applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable. 37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware

that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

In the instant case, a transmittal letter was included with the original application papers.

Further, a review of the USPS "Track and Confirm" statement indicates that Express Mail label #EB278302049US was accepted at 3:49 pm on 07 June 2007, the filing date the USPTO accorded to the application. Applicant's Customer Copy of the Express Mail label, bears the date-in of "06/06/07"; however, the USPS barrel date-stamp bearing the requested filing date "7 JUN 2007".

The evidence of record at this time is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 07 June 2007.

Petitioner satisfied Items (1), (2) and (3). The petition under 37 CFR 1.110(d) is granted. The international filing date is 07 June 2007.

CONCLUSION

Applicant's request that international filing date of 07 June 2007 be accorded application PCT/US07/13463 is **GRANTED**. The international filing date is 07 June 2007.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 20 August 2007 is hereby **VACATED**. A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 07 June 2007.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

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31 OCT 2007

Kuni Oh
Jackson & Co., LLP
6114 La Salle Avenue #507
Oakland, CA 94611-2802

In re Application of :
ABBOTT DIABETES CARE, INC. :
PCT No.: PCT/US07/13582 : DECISION ON PETITION
Int. Filing Date: 07 June 2007 : UNDER 37 CFR 1.10
Priority Date: 07 June 2006 :
Attorney Docket No.: TS-02-79U1PCT :
For: ANALYTE MONITORING SYSTEM AND :
METHOD

This decision is issued in response to applicant's "Request for Corrected International Filing Date" (under 37 CFR 1.10) filed 18 October 2007 to accord an international filing date of 07 June 2007 to the above-identified international application.

BACKGROUND

The United States Receiving Office accorded an international filing date of 08 June 2007 to the above-identified international application.

On 18 October 2007, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EO935002593US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" and shows a USPS postal stamp dated June 07, 2007.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 07 June 2007. Specifically, the "Express Mail" label number ("#EO935002593US") appears on "Express Mail" certificate on the Transmittal Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 07 June 2007.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 07 June 2007. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 07 June 2007 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 07 June 2007; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 07 June 2007; and (3) forwarding a copy of this decision to the International Bureau.

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United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
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Richard O. Gray, Jr.
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155-108th Avenue N.E., Suite 350
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In re Application of ENDOGASTRIC SOLUTIONS, INC. PCT No.: PCT/US07/13951 Int. Filing Date: 13 June 2007 Priority Date: 15 June 2006 Agent's File Reference: 2234-021-04 For: TISSUE FIXATION DEVICES INCLUDING REACTION CAUSING AGENTS	DECISION UNDER 37 CFR 1.181

Applicants' 18 September 2007 communication is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 13 June 2007, applicants filed international application PCT/US07/13951, which claimed priority to a U.S. application filed 15 June 2006.

On 06 September 2007, The United States Receiving Office (RO/US) mailed a "NOTIFICATION OF TRANSMITTAL OF PURPORTED INTERNATIONAL APPLICATION TO THE INTERNATIONAL BUREAU AS RECEIVING OFFICE AND INVITATION TO PAY FEE" (Form PCT/RO/151) informing applicants that the present international application was being sent to the International Bureau as receiving office because the application did not have a proper applicant for the United States of America.

On 18 September 2007, applicants filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the PCT Request originally filed on 13 June 2007 is present. The PCT Request indicates that at least one of the applicants is a resident and/or national of the United States of America. Therefore, the RO/US is a competent receiving office.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED.**

Accordingly, the Form PCT/RO/151 mailed 06 September 2007 is hereby **VACATED.**

This application is being forwarded to the RO/US section of the Office of PCT Operations to notify the International Bureau that the Form PCT/RO/151 mailed 06 September 2007 has been vacated and to request that all application papers forwarded under PCT Rule 19.4

to the International Bureau be returned for processing by the RO/US.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

JSF/BL:jf

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

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Copy to:
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UNITED STATES PATENT AND TRADEMARK OFFICE

17 JUN 2009

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JAMES G. COPLIT
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488 MAIN AVENUE, THIRD FLOOR
NORWALK CT CONNECTICUT 06851

In re Application of:
DEROSA-GRUND , H. Anthony, et al.
PCT No.: PCT/US2007/013994
International Filing Date: 14 June 2007
Priority Date: 14 June 2006
Atty Docket No.: DRG001UPU
For: METHODS AND APPARATUS FOR OPERATING GAMES AND CONTESTS UTILIZING A NOVEL AND UNIQUE POINT SYSTEM TO REALISTICALLY EMULATE REAL MONEY GAMING AND CONTESTS

DECISION

This decision is issued in response to the "Request for Refund" filed 11 December 2008. No petition fee is required.

BACKGROUND

On 15 July 2008, the United States International Searching Authority (ISA/US) mailed an "Invitation To Pay Additional Fees" (Form PCT/ISA/206) informing applicant that the present application was considered to contain three additional inventions and that an additional $1000 search fee was requiring for each of the additional inventions that applicant desired to have searched.

On 15 August 2008, applicant filed a "Response To Invitation To Pay Additional Fees" which authorized the search of the additional inventions and included payment of the required $3000 in additional fees.

On 11 September 2008, the United States International Searching Authority (ISA/US) mailed the International Search Report (Form PCT/ISA/210) and Written Opinion of the International Searching Authority (Form PCT/ISA/237). The International Search Report indicated that ""No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos: 1-9 and 54."

On 11 December 2008, applicant submitted the "Request for Refund" considered herein.

DISCUSSION

As noted above, the international search performed here did not include the three additional inventions paid for by applicants in response to the Invitation to Pay Additional Fees (Form PCT/ISA/206). In the present submission, applicants do not request that a new search be performed including these additional inventions. Rather, applicants have requested a refund of the additional $3,000 fee payment submitted on 15 August 2008.

35 U.S.C. 376 states that the Director may refund any part of the search fee, the national fee, the preliminary examination fee and any additional fees, where he determines such refund to be warranted. In accordance with 35 U.S.C. 376 and applicants' present request, the additional inventions will not be searched and applicants will be refunded the $3,000 supplemental search fee.

CONCLUSION

Applicants' request for refund is **GRANTED**.

Deposit Account No. 07-2162 will be credited with a refund of the $3,000 in additional search fees paid by applicants herein.

Richard M. Ross
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UNITED STATES PATENT AND TRADEMARK OFFICE

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12 FEB 2008

James A. Flight
Hanley, Flight & Zimmerman, LLC.
150 S. Wacker Dr., Suite 2100
Chicago, IL 60606

In re Application of :
NIELSEN MEDIA RESEARCH, INC. :
PCT No.: PCT/US07/14317 : DECISION ON PETITION
Int. Filing Date: 20 June 2007 :
Priority Date: 20 June 2006 : UNDER 37 CFR 1.10(c)
Atty. Docket No.: 20004/325-WO :
For: METHODS AND APPARATUS FOR :
DETECTING ON-SCREEN MEDIA SOURCES :

This decision is in response to applicant's "REQUEST FOR CORRECTION OF FILING DATE" filed in the United States Patent and Trademark Office (USPTO) on 06 February 2008. The request is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to earlier United States application filed 20 June 2006.

The United States Receiving Office (US/RO) accorded the application an international filing date of 19 June 2007. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 12 October 2007.

On 06 February 2008, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 20 June 2007 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 19 June 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has

accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 12 October 2007 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 20 June 2007 and corrected first page of the PCT request form are enclosed with this decision.

Copies of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

Derek A. Putonen
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CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

Encl: Form RO/105 and Page one of PCT Request

PCT/US2007/014317

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 07/14317

International Filing Date 20 JUN 2007

RO/US

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 20004/325-WO

Box No. I TITLE OF INVENTION

METHODS AND APPARATUS FOR DETECTING ON-SCREEN MEDIA SOURCES

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

Nielsen Media Research, Inc.
770 Broadway
New York, NY 10003
USA

Telephone No.

Facsimile No.

Teleprinter No.

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

Min Zhang
2350 Cypress Pond Road, #2110
Palm Harbor, FL 34683
USA

This person is:
☐ applicant only
☒ applicant and inventor
☐ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality: CN

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

James A. Flight
Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr., Suite 2100
Chicago, IL 60606
USA

Telephone No. 312-580-1020

Facsimile No. 312-580-9696

Teleprinter No.

Agent's registration No. with the Office 37622

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

UNITED STATES PATENT AND TRADEMARK OFFICE

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17 JUL 2007

Joseph J. Catanzaro
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666 Third Avenue
New York, New York 10017-5621

In re Application of :
UNITED STATES LUGGAGE COMPANY, LLC :
PCT No.: PCT/US07/14662 : DECISION ON PETITION
Int. Filing Date: 22 June 2007 :
Priority Date: 22 June 2006 : UNDER 37 CFR 1.10(c)
Attorney Docket No.: 208,891-PCT :
For: SHOCK ABSORBING WHEEL HOUSING AND :
WHEEL FOR . . . INCORPORATING SAME :

This decision is issued in response to applicant's "Petition under 37 CFR.10(c) to Correct Filing Date of International Application" filed in the United States Patent and Trademark Office (USPTO) on 11 July 2007.

On 22 June 2007, applicant filed a PCT Request with the USPTO which claimed priority of an earlier U.S. application filed 22 June 2006.

On 11 July 2007, applicant filed the present petition.

An examination of USPTO records finds that while applicant has received a stamped return postcard, the papers have yet to be accorded an international filing date. For this reason, applicant's petition under 37 CFR 1.10(c) is **DISMISSED as moot**.

It is noted that a review of the Express Mail mailing envelope shows an Express Mail "Date-In" date of 22 June 2007. As such, when the United States Receiving Office (RO/US) processes the international application it will be accorded an international filing date of **22 June 2007**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing of the international application.

Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

18 SEP 2007

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MONSANTO COMPANY
800 NORTH LINDBERGH BLVD.
ST. LOUIS, MISSOURI 63167

In re Application of	:	
MONSANTO TECHNOLOGY LLC et al.	:	DECISION ON
PCT No.: PCT/US07/15136	:	
Receipt Date: 28 June 2007	:	PETITION UNDER
Priority Date: 13 June 2006	:	
Attorney's Docket No.: 37-21(53893)A/PCT	:	37 CFR 1.182
For: Single Nucleotide Polymorphisms and Use of Same In Selection Of Dairy Cattle	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.182 And request For restoration Of Priority Of Receiving Office Under PCT Rule 26*bis*.3," filed 28 June 2007.

BACKGROUND

On 28 June 2007, applicants filed PCT/US07/15136 and the instant petition to restore the right of priority to U.S. provisional application serial no. 60/813,006, filed on 13 June 2006.

DISCUSSION

Applicant has presently included a statement of unintentional delay. Specifically, the statement that, "the current application was not filed...because Applicant unintentionally missed the June 13, 2007 filing date," has been interpreted to mean that, the "delay in filing the international application was unintentional." If applicant considers this interpretation to be incorrect, applicant is required to provide a statement to that effect. Furthermore, applicant has also provided authorization to charge the $400 petition fee to Deposit Account No. 13-4125.

As such, it is appropriate to grant applicant's petition at this time.

CONCLUSION

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

The priority date in the instant application is **13 June 2006.**

This application is being forwarded to the United States Receiving Office for further processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
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George H. Weeks
9 Spruce Mountain Trail
Danbury, Connecticut 06810

In re Application of	
Weeks, George H.	
PCT No.: PCT/US07/15674	DECISION ON PETITION
Int. Filing Date: 06 July 2007	UNDER 37 CFR 1.10(e)
Priority Date: 10 July 2006	
Attorney Docket No.: None	
For: COATED AIRPLANES AND ROCKETS	

This decision is issued in response to applicant's "Petition for Correspondence Never Received under 37 CFR 1.10(e)" filed 20 February 2008. No petition fee is required.

On 06 July 2007, applicant filed the present international application with the United States Patent and Trademark Office (USPTO), which included: 3 page PCT Request; 5 pages of description; 2 pages of claims; and a 1 page abstract.

On 11 September 2007, the Receiving Office/United States mailed "Communication in Cases for Which No Other Form is Applicable" which indicated "the record copy of the international application has not yet been transmitted to the International Bureau because the necessary national security clearance has not yet been obtained." (A copy of the communication is attached herewith for your convenience.)

On 20 February 2008, applicant filed the present petition under 37 CFR 1.10(e).

The papers filed by applicant on 06 July 2007 have been received and processed by the USPTO and assigned the present application number, PCT/US07/15674. Accordingly, the petition under 37 CFR 1.10(e) is **DISMISSED** as moot.

The application is being returned to the United States Receiving Office for issuance of a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) and a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

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0 3 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Joe Liebeschuetz
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In re Application of	:	
ARBOR VITA CORPORATION	:	
PCT No.: PCT/US07/15747	:	DECISION ON PETITION
Int. Filing Date: 10 July 2007	:	
Priority Date: 11 July 2006	:	UNDER 37 CFR 1.10(c)
Attorney Docket No.: 26373-2-1PC	:	
For: METHOD AND COMPOSITIONS FOR TREATING STROKE WITH FEVER	:	

This decision is in response to applicant's correspondence filed in the United States Patent and Trademark Office (USPTO) on 19 September 2007. The paper is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 10 July 2007. No petition fee is due.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 11 July 2006.

The United States Receiving Office (US/RO) accorded the application an international filing date of 11 July 2007. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 30 August 2007.

On 19 September 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 10 July 2007 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 11 July 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 30 August 2007 is hereby **VACATED**.

A corrected "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) according the application papers an international filing date of 10 July 2007 and corrected first page of the PCT request form are enclosed with this decision.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office for processing in accordance with this decision.

Derek A. Putonen
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Encl: Form RO/105 and Page one of PCT Request

26 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATRICK BOUCHER
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TWO EMBARCADERO CENTER, EIGHTH FLOOR
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In re Application of:	:	
METAVANTE CORPORATION	:	
PCT No.: PCT/US2007/15764	:	DECISION
International Filing Date: 10 July 2007	:	
Priority Date Claimed: 10 May 2006	:	
Atty Docket No.: 40048-11-PC	:	
For: PREDICTIVE AUTHORIZATION TECHNIQUES	:	

This decision is response to applicant's "Statement For Restoration Of Priority Right" filed with the present international application on 10 July 2007, treated herein as a petition under 37 CFR 1.182. Based on the authorization to charge fees contained on the Fee Calculation Sheet, Deposit Account No. 20-1430 will be charged the required $400 petition fee.

BACKGROUND

On 10 July 2007, applicant filed the above captioned international application in the United States Receiving Office (RO/US). The application materials included the "Statement For Restoration Of Priority Right" and supporting materials treated herein as a petition under 37 CFR 1.182 to restore the right of priority to U.S. application serial number 11/382,620 filed 10 May 2006.

DISCUSSION

The interim procedures for the restoration of priority claim are detailed on the USPTO website. Consistent with these interim procedures, applicant included with the international application a statement that the delay in filing the international application was unintentional, with supporting materials. In addition, the subject priority claim (application number 11/382,620 filed 10 May 2007) was listed in Box VI-1 of the PCT Request filed 10 July 2007, and applicant has authorized a charge for required fees, including the required $400.00 petition fee. All of these materials were filed on 10 July 2007, which is within the two-month period required by PCT Rule 26*bis*.3 for restoration of right of priority.

Based on applicant's submission, this Office finds that the criterion for restoration applied by the RO/US is satisfied, namely that the failure to file the international application within the priority period was unintentional. It is therefore appropriate to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.182 for restoration of right of priority based on unintentional delay is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

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CC: International Bureau of WIPO
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CH-1211 Geneva 20
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UNITED STATES PATENT AND TRADEMARK OFFICE

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11 DEC 2007

VICTOR LEE
VICE PRESIDENT AND CHEIF GROUP COUNSEL
CELERA, AN APPLERA BUSINESS UNIT
1401 HARBOR BAY PARKWAY
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In re Application of: APPLERA
PCT Application No.: PCT/US2007/016254
International Filing Date: 16 July 2007
Priority Date: 14 July 2006
Atty Docket No.: CD000009PCT
For: GENETIC POLYMORPHISMS ASSOCIATED WITH ALZHEIMER'S DISEASE, METHODS OF DETECTION, AND USES THEREOF

DECISION ON PETITION
(37 CFR 1.10(c))

This decision is issued in response to the "Response To Invitation To Correct Priority Claim (PCT/RO/110)" filed 17 October 2007, treated herein as a petition under 37 CFR 1.10(c) to correct the international filing date. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a Transmittal Letter that identified the "Express Mail" label number as ER622077997US, and listed the date of deposit as 16 July 2007.

On 19 August 2007, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 17 July 2007 and an "Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) indicating that applicant's earliest priority claim was defective for failure to fall within twelve months of the international filing date.

On 17 October 2007, applicant filed the submission considered as a petition herein. The petition asserts that the proper international filing date here is 16 July 2007, a date within twelve months of the 14 July 2006 filing date of the earliest priority application (14 July 2007 was a Saturday). The submission includes, among other materials, a copy of the customer receipt for "Express Mail" label number ER622077997US.

DISCUSSION

Applicant asserts that the proper international filing date is 16 July 2007, the date on which the "Express Mail" envelope containing the application materials was apparently

deposited with the USPS. As noted above, a Transmittal Letter that identified the "Express Mail" label number and deposit date accompanied the original application papers, and a copy of the customer receipt for this "Express Mail" label number is included with the present petition. The "date-in" on the customer receipt identifies the day of deposit as "16" and the year as "07." The "date-in" on the customer receipt does not include a legible month; however, applicant has provided a sales receipt for the present "Express Mail" envelope that is dated 16 July 2007, and the USPS online tracking data confirms acceptance of this "Express Mail" envelope by the USPS on 16 July 2007.

Based on applicant's statements, the Transmittal Letter included with the original application papers (which listed the "Express Mail" label number), the "16" date listed in the "date-in" on the "Express Mail" customer receipt, and the USPS online tracking data, it is concluded that the present application was deposited as "Express Mail" with the USPS on 16 July 2007. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 16 July 2007.

It is noted that the corrected international filing date is within twelve months of the claimed priority date of 14 July 2006 (14 July 2007 was a Saturday).

CONCLUSION

The petition for correction of the international filing date is **GRANTED**. The international filing date is corrected to **16 July 2007**.

The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 19 September 2007, which identified 17 July 2007 as the international filing date, is hereby **VACATED**.

The corrected international filing date is within twelve months of the claimed priority date of 14 July 2006 (14 July 2007 was a Saturday).

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which identifies the international filing date as **16 July 2007** is issued herewith.

Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

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cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 OCT 2007

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In re Application of	:	
ASPEL	:	
PCT No.: PCT/US07/16297	:	DECISION ON PETITION
Int. Filing Date: 19 July 2007	:	
Priority Date: 09 March 2007	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 29189.01	:	
For: VEHICLE VISOR WITH AUXILIARY SUNSHADE AND ADJUSTABLE SEAT	:	

This is a decision on applicant's "PETITION UNDER 37 CFR1.182" filed 24 October 2007in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 19 July 2007, applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 09 March 2007, as well as an earlier United States application filed 12 July 2007.

On 19 September 2007, $700.00 was deducted from applicant's deposit account for payment of the remainder of a $1000.00 search fee payment.

On 17 October 2007, applicant filed a request for refund indicating that the provisions of 37 CFR 1.445(a)(2) had been satisfied at the time of filing.

On 22 October 2007, applicant was mailed a "Communication in Cases For Which no Other Form is Applicable" (Form PCT/RO/132) dismissing applicant's request for refund.

On 24 October 2007, applicant filed the petition considered herein.

DISCUSSION

A review of the application file does not show the "Request for Reduced Search Fee" paper referenced in applicant's file; thus the dismissal indicated in the From PCT/RO/132 mailed 22 October 2007.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped PCT application cover sheet. The PCT application cover sheet identifies the application by applicant, title and attorney docket number. The postcard is stamped "OIPE IAP44 Patent & Trademark Office JUL 19 2007." Among the items listed on the postcard are "Request for Reduced Search Fee" The postcard has not been annotated in any way to indicate that this paper was not received at the time of filing. Applicant has presently included a copy of the paper and certified that it is a true and complete copy of the original filed 19 July 2007. Thus, it is proper to accept the paper filed 24 October 2007 as originally filed 19 July 2007.

A review of the paper shows that it identifies the applicant, filing date, title and docket number for the priority item filed 12 July 2007 under 35 U.S.C. 111(a). As such, applicant is entitled to the reduced international search fee of $300.00.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

$700. 00 will be credited to deposit account number 12-1662.

This application is being returned to the United States Receiving Office (RO/US) for continued processing of the international application.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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0 1 OCT 2007

ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE CA CALIFORNIA 94086

In re Application of:	:	
VIBRYNT, INC.	:	DECISION ON PETITION UNDER
PCT Application No.: PCT/US2007/016654	:	37 CFR 1.10(c)
International Filing Date: 24 July 2007	:	
Priority Date: 24 July 2006	:	
Atty Docket No.: EXPL-002WO	:	
For: DEVICES AND METHODS FOR TREATMENT OF OBESITY	:	

This decision is issued in response to the "Response To Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" filed 10 September 2007, treated herein as a petition under 37 CFR 1.10(c) to correct the international filing date. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a Transmittal Letter that itemized the contents of the application, identified the "Express Mail" label number as EB134994445US, and listed the date of deposit as 24 July 2007.

On 31 August 2007, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 25 July 2007 and an "Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) indicating that applicant's earliest priority claim was defective for failure to fall within twelve months of the international filing date.

On 10 September 2007, applicant filed the submission considered as a petition herein. The petition asserts that the proper international filing date here is 24 July 2007, a date within twelve months of the 24 July 2006 filing date of the earliest priority application. The submission includes, among other materials, a copy of the customer receipt for "Express Mail" label number EB134994445US. This receipt bears a "date-in" of 24 July 2007, as well as a separate USPS stamp dated 24 July 2007.

DISCUSSION

Applicant asserts that the proper international filing date is 24 July 2007, the date on which the "Express Mail" envelope containing the application materials was deposited with the USPS. As noted above, a Transmittal Letter that identified the "Express Mail" label number and

deposit date accompanied the original application papers, and a copy of the customer receipt for this "Express Mail" label number is included with the present petition. The receipt bears a "date-in" of 24 July 2007, as well as a separate USPS stamp dated 24 July 2007.

Based on applicant's statements, the Transmittal Letter included with the original application papers (which listed the "Express Mail" label number), and the 24 July 2007 "date-in" and date stamp entered by the USPS on the "Express Mail" customer receipt, it is concluded that the present application was deposited as "Express Mail" with the USPS on 24 July 2007. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 24 July 2007.

It is noted that the corrected international filing date is within twelve months of the claimed priority date of 24 July 2006.

CONCLUSION

The petition for correction of the international filing date is **GRANTED**. The international filing date is corrected to **24 July 2007**.

The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 31 August 2007, which identified 25 July 2007 as the international filing date, is hereby **VACATED**.

The "Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" (PCT/RO/110) mailed 31 August 2007, which indicated that the 24 July 2006 priority application was not filed within twelve months of the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which identifies the international filing date as **24 July 2007** is issued herewith.

Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

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cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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10 MAR 2008

UCHENNA N. CHUKWU
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In re Application of	:	
CHI'S RESEARCH CORPORATION	:	DECISION ON
PCT No.: PCT/US07/16923	:	
Int. Filing Date: 27 July 2007	:	PAYMENT OF FEES
Priority Date: 27 July 2006	:	
Attorney Docket No.: CRC C514.13-0014	:	
For: BIO-ACTIVE RAW VEGETABLES	:	
	:	

This is a decision regarding applicant's "Petition to Waive Late Payment Fee and Response to Invitation to Pay Prescribed Fees Together With Late Payment Fee" with regard to the payment of a late payment fee in the above referenced application filed in the United States Receiving Office (RO/US) on 10 January 2008. This communication is also in response to applicant's "Request to Vacate Notification that International Application Considered to Be Withdrawn" filed in the RO/US on 10 January 2008.[1]

On 27 July 2007, applicants filed an international application PCT/US07/16923. Applicant provided a check in the amount of $2,386 for prescribed fees.

On 27 September 2007, a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) was mailed to applicant indicating that fees in the amount of $2,410 were payable in this application, that applicant had paid $2,386 and that a balance of $24 remained due. Pursuant to PCT Rule 14.1, 15.4 and 16.1(f), the time limit for payment was "within ONE MONTH" of the date of receipt of the international application.

On 14 November 2007, an Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133) was mailed to applicant, indicating that the total unpaid fees of $24 along with the late payment fee of $300, for a total of $324, must be within ONE MONTH from the mail date or by 14 December 2007. This one month deadline was clearly indicated on the

[1] Both the Petitions were directed to the International Bureau and copies were filed with the United Sates Receiving Office.

RO/133.

On 19 November 2007, more than 3 months after the international filing date, applicant submitted a check in the amount of $24 to the RO/US.

On 03 January 2008, Notification that International Application Considered to be Withdrawn was mailed to applicant indicating that applicant failed to pay prescribed fees in the amount insufficient to cover the late payment fee.

On 10 January 2008, applicant submitted to the RO/US, via facsimile, a copy of "Petition to Waive Late Payment Fee and Response to Invitation to Pay Prescribed Fees Together with Late Payment Fee". On the same date, applicant also submitted a "Request to Vacate Notification that International Application Considered to Be Withdrawn".

DISCUSSION

The PCT Applicant's Guide, paragraphs 211-214, provides the following pertinent instruction:

> Where, within the time they are due, the applicant has not paid any or all of the fees, the receiving Office invites the applicant to pay the missing amount, together with a late payment fee, within a time limit of one month from the date of the invitation. If the applicant pays the amount (including the late payment fee) specified in the invitation, the deficiency in payment has no consequences for the international application. (The amount of the late payment fee is 50% of the missing amount or, if that 50% is less than the transmittal fee, an amount equal to the transmittal fee; but the amount of the late payment fee may not exceed the amount of 50% of the international filing fee referred to in item 1 of the Schedule of Fees, not taking into account any fee for each sheet of the international application in excess of 30 sheets)...
>
> *If the international filing fee is not paid in the within the prescribed time limits, including the time limit set in the invitation from the receiving Office to pay the missing amount together with the late payment fee, the international application is considered withdrawn, and the receiving Office promptly informs the applicant accordingly.*
>
> However, any payment must be considered to have been received before the expiration of the applicable time limit if it is received by the receiving Office before that Office makes the applicable declaration, under Article 14(3), that the international application is considered withdrawn.

(Emphasis added.)

PCT Rule 15.4 states that the international filing fee shall be paid within one month from the date of receipt of the international application. Applicant should have been aware of the

applicable fees for this international application and the timely payment of fees. In any event, the RO/US issued a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) to applicant on 27 September 2007 indicating that a $24 balance was due. This invitation

Thereafter, on 14 November 2007, RO/US issued the Invitation to Pay Prescribed Fees Together with Late Payment Fee that the $24 fee and the late payment fee of $300 was due (totaling $324). On 19 November 2007, Applicant paid only the $24 balance, ignoring the Invitation to Pay Prescribed Fees Together with Late Payment Fee and failing to the pay the additional $300 late fee.

Applicant indicates that he contacted the PCT Help Desk and spoke with a supervisor on 20 November 2007 and was advised that "no withdrawal of the late payment fee would be made". In spite of this advice, applicant did not pay the $300 late fee and on 3 January 2008, the international application was withdrawn.

Applicant has not demonstrated that the RO/US received the requisite late fee ($300) prior to the issuance of the Notification that International Application Considered to be Withdrawn, which was mailed on 3 January 2008. Since applicant did not provide a timely response to the Invitation to Pay Prescribed Fees Together with Late Payment Fee and did not provide the entire $324 that was due, pursuant to PCT Article 14(3) and Rule 16.*bis*.1, the international application is considered withdrawn.

CONCLUSION

For the above stated reasons, the "Petition to Waive Late Payment Fee and Response to Invitation to Pay Prescribed Fees Together with Late Payment Fee" and "Request to Vacate Notification that International Application Considered to Be Withdrawn" are hereby **REFUSED**.

The 03 January 2008 Notification that International Application Considered to be Withdrawn remains in effect. PCT Application PCT/US07/16923 is considered withdrawn.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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18 APR 2008

UCHENNA N. CHUKWU
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In re Application of	:	
CHI'S RESEARCH CORPORATION	:	DECISION ON
PCT No.: PCT/US07/16923	:	
Int. Filing Date: 27 July 2007	:	PAYMENT OF FEES
Priority Date: 27 July 2006	:	
Attorney Docket No.: CRC C514.13-0014	:	
For: BIO-ACTIVE RAW VEGETABLES	:	
	:	

This is a decision regarding applicant's "Request for Reconsideration of the Decision that International Application Considered to be Withdrawn" in the above referenced application filed in the United States Receiving Office (RO/US) on 14 March 2008.

The background of this application was reviewed in the decision mailed on 10 March 2008 and relied upon herein. It is sufficient to explain that upon filing, applicant provided a check in the amount of $2,386 for prescribed fees. Thereafter, on 27 September 2007, a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102) was mailed to applicant indicating that a balance of $24 remained due. Almost two months later, on 14 November 2007, an Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133) was mailed to applicant, indicating that the total unpaid fees of $24 along with the late payment fee of $300, for a total of $324, must be paid within ONE MONTH from the mail date or by 14 December 2007.

On 19 November 2007, more than 3 months after the international filing date, applicant submitted a check in the amount of $24 to the RO/US but failed to pay the $300 late fee. Applicant alleges that an attempt to pay the $300 late fees was made directly to the International Bureau.

The United States Receiving Office never received the timely payment for the $300 late fee. On 03 January 2008, Notification that International Application Considered to be Withdrawn was mailed to applicant indicating that applicant failed to pay prescribed fees in the amount insufficient to cover the late payment fee.

Applicant requests reconsideration of the 10 March 2008 decision on the "Petition to Waive Late Payment Fee and Response to Invitation to Pay Prescribed Fees Together with Late Payment Fee" and "Request to Vacate Notification that International Application Considered to Be Withdrawn". Applicant's request to waive the $300 late fee is refused as there is no basis for such waiver.

Applicant has not provided any additional evidence to show timely payment to the United States Receiving Office of the $300 in late fees which were due in this application. It is applicant's responsibility to respond in a timely manner during the international application process. Lack of knowledge is not an excuse for the failure to pay the fees nor is the use of outdated forms. Moreover, applicant acknowledges contacting the PCT Help Desk supervisor Mike Neas on 20 November 2007 for clarification, which allowed sufficient time to pay the late fees which were due by 14 December 2007. It is unclear why applicant would attempt to pay the International Bureau for fees which are due to the United States Receiving Office, creating additional confusion.

On 03 January 2008, the Receiving Office declared the application to be considered withdrawn because the payment of all late fees were not received. Therefore, pursuant to Article 14(3), the international application is properly considered withdrawn.

For the above stated reasons, the "Request for Reconsideration of the Decision that International Application Considered to be Withdrawn" is hereby **DISMISSED**.

The 03 January 2008 Notification that International Application Considered to be Withdrawn remains in effect. PCT Application PCT/US07/16923 is considered withdrawn.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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10 JAN 2008

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Harrington & Smith, P.C.
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Shelton, Connecticut 06484-6212

In re Application of :
BROWN UNIVERSITY :
PCT No.: PCT/US07/17072 : DECISION ON PETITION
Int. Filing Date: 30 July 2007 : UNDER 37 CFR 1.10
Priority Date: 28 July 2006 :
Attorney Docket No.: 904.0137.U1(WO) :
For: CERTIFICATION AND :
AUTHENTICATION OF DATA
STRUCTURES

This decision is issued in response to applicant's "Response to Invitation to Correct Priority Claim in the International Application" which is being treated as petition under 37 CFR 1.10(c) filed 16 November 2007 to accord an international filing date of 30 July 2007 to the above-identified international application. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 31 July 2007 to the above-identified international application.

On 16 November 2007, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EV713826195US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22202-1450" and shows a "Date In" of "07-30-07."

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 30 July 2007. Specifically, the "Express Mail" label number ("#EV713826195US") appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 30 July 2007.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 30 July 2007 is **GRANTED**.

The Invitation to Correct Priority Claim (form PCT/RO/110) mailed 11 October 2007 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 30 July 2007; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 30 July 2007; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
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PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 07/17072

International Filing Date 30 JUL 2007

PCT INTERNATIONAL APPLICATION RO/US

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 904.0137.U1(WO)

Box No. I TITLE OF INVENTION

CERTIFICATION AND AUTHENTICATION OF DATA STRUCTURES

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

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Telephone No. 401-863-9896

Facsimile No. 401-863-1836

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

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Facsimile No. 203-944-0245

Agent's registration No. with the Office 32,493

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

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RASHIDA A. KARMALI
99 WALL STREET, 10TH FLOOR
NEW YORK, NY 10005

In re Application of KARMALI	:	
PCT Application No.: PCT/US2007/017458	:	
Int. Filing Date: 06 August 2007	:	
Priority Date Claimed: 31 July 2006	:	
Attorney Docket No.: 134.006PCT	:	DECISION
For: COMPOSITIONS AND METHODS OF REDUCING TISSUE LEVELS OF DRUGS WHEN GIVEN AS OROTATE DERIVATIVES	:	

This is in response to applicant's "Request to Restore Right of Priority" filed 20 September 2007, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 06 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 20 September 207, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

In accordance with the interim procedures (in effect prior to November 9, 2007) regarding a request for restoration of a right of priority, such a request will be treated as a petition under 37 CFR 1.182. See http://www.uspto.gov/web/offices/pac/dapps/pct/ann.htm. Applicant has submitted a petition fee of $1,370.00, which is in excess of the requisite $400.00. Thus, $970.00 will be refunded to applicant.

The petition was filed within two months after the expiration of the priority period. Furthermore, the petition includes an appropriate statement of unintentional delay. Therefore, the requirements for a request to restore a right of priority have been met.

The petition requests a waiver of the petition fee on grounds that the international application papers were previously submitted on 09 July 2007. However, a review of USPTO records revealed no evidence that the papers for the present international application were submitted on 09 July 2007. Applicant has not furnished a properly itemized, stamped return postcard receipt which demonstrates that the present international application papers were filed on 09 July 2007. Accordingly, a waiver of the petition fee is not indicated in the present case.

CONCLUSION

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

This application is being forwarded to the (RO/US) for further processing in accordance with this decision. A copy of this decision is being sent to the International Bureau.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: Notification of Decision on Request to Restore Right of Priority (Form PCT/RO/159)

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

RASHIDA A. KARMALI
99 WALL STREET, 10TH FLOOR
NEW YORK, NEW YORK 10005

PCT

NOTIFICATION OF
DECISION ON REQUEST
TO RESTORE RIGHT OF PRIORITY

(PCT Rule 26*bis*.3(h)(iii))

Date of mailing *(day/month/year)*	07 Nov 2007
Applicant's or agent's file reference: 134.006PCT	**REPLY DUE**: See below

International application No.	International filing date/Date of receipt *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2007/017458	06 Aug 2007	31 Jul 2006

Applicant: KARMALI, RASHIDA A

Upon the request of the applicant:

☐ included in Form PCT/RO/101 at the time of filing of this international application, or

☒ received on 20 September 2007

to restore the right of priority in respect of the following priority claim(s) US 11/496,255, filed 31 July 2006 this receiving Office has decided:

☒ **to restore** the right of priority, based on the finding by this receiving Office that the criterion for restoration applied by it is **satisfied**, namely that the failure to file the international application within the priority period:

- ☐ occurred in spite of due care required by the circumstances having been taken.
- ☒ was unintentional.

☐ **to refuse** the request to restore the right of priority, following issuance of the Notification of Intended Refusal of Request to Restore Right of Priority (Form PCT/RO/158) dated _____ for the following reason(s):

1. ☐ the request to restore the priority right was not received within the applicable time limit under Rule 26*bis*.3(e).
2. ☐ the statement of reasons for the failure to file the international application within the priority period is missing or insufficient (Rule 26*bis*.3(b)(ii)).
3. ☐ a declaration in support of the statement of reasons for the failure to file the international application within the priority period is missing or insufficient (Rule 26*bis*.3(f)).
4. ☐ evidence in support of the statement of reasons for the failure to file the international application within the priority period is missing or insufficient (Rule 26*bis*.3(f)).
5. ☐ lack of payment of the fee for restoration (Rule 26*bis*.3(d)).
6. ☐ lack of a priority claim in respect of an earlier application in the international application as required under Rule 26*bis*.3(c).

Where appropriate, the reason(s) for refusal are set out fully in the Annex to this form.

A copy of this Decision is being sent to the International Bureau.

Name and mailing address of the receiving Office	Authorized officer
Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	Bryan Lin BL
Facsimile No. 571-273-3201	Telephone No. 571-272-3303

Form PCT/RO/159 (April 2007)

ANNEX TO FORM PCT/RO/159

International application No.
PCT/US2007/017458

This receiving Office has refused the request to restore the right of priority for the following reason(s):

06 DEC 2007

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

SAMUEL H. WEINER
1180 AVENUE OF THE AMERICAS, FL. 7
NEW YORK NY NEW YORK 10036

In re Application of :
INTERNATIONAL RECTIFIER Corp.. :
PCT No.: PCT/US02007/017460 : DECISION
Int. Filing Date: 07 August 2007 :
Priority Date: 04 August 2006 : ON PETITION UNDER
Docket No.: 3355(2-6242) :
For: STARTUP AND SHUTDOWN CLICK : 37 CFR 1.10(c)
NOISE ELIMINATION FOR CLASS D :
AMPLIFIER :

This decision is in response to applicant's petition to correct the international filing date, filed in the United States Patent and Trademark Office on 26 September 2007. It has been treated as a petition under 37 CFR 1.10(c), but if the date applicant has on their Express Mail receipt is different to the one sought by applicant, this should proceed as a 37 CFR 1.10(d).

BACKGROUND

Applicant filed international application PCT/US02007/017460 via Express Mail.

On 17 September 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 07 August 2007.

On 26 September 2007, applicant submitted a petition to correct the international filing date of the application.

DISCUSSION

In the instant petition, applicant requests that the filing date be amended to 06 August 2007, but applicant has not furnished the mailing label showing the "date in". Under 37 CFR 1.10(a), correspondence delivered to the Office by "Express Mail" will be considered filed 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." 37 CFR 1.10(a).

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes a true copy of the Express Mail mailing label and of any other official notation by

the USPS relied upon to show the date of deposit.

Items (1) and (2) have been met. (1) The petition was promptly filed. (2) The Express Mail mailing label number was included with the application papers.

Item (3) has not been satisfied. Applicant not provided a photocopy of the Express Mail mailing label showing the "date in".

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 06 August 2007 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed , should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

The application is being returned to the United States Receiving Office for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

10 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SAMUEL H. WEINER
1180 AVENUE OF THE AMERICAS, FL. 7
NEW YORK NY 10036

In re Application of	
INTERNATIONAL RECTIFIER Corp..	
PCT No.: PCT/US02007/017460	DECISION
Int. Filing Date: 07 August 2007	
Priority Date: 04 August 2006	ON PETITION UNDER
Docket No.: 3355(2-6242)	
For: STARTUP AND SHUTDOWN CLICK NOISE ELIMINATION FOR CLASS D AMPLIFIER	37 CFR 1.10(c)

This decision is in response to applicant's renewed petition under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office on 01 February 2008.

BACKGROUND

On 06 December 2007, the Office mailed Decision On Petition, dismissing applicant's petition under 37 CFR 1.10(c) and setting a two month period for reply.

On 01 February 2008, applicant filed this renewed petition.

DISCUSSION

Under 37 CFR 1.10(c), when a discrepancy exists between the filing date accorded to correspondence and the date of deposit with the USPS as shown by the "date in" or other official USPS notation, applicant may petition the office 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) petition is promptly filed, (2) the number of the "Express Mail" mailing label was placed on the papers prior to the original mailing, and (3) that the petition includes a true copy of the Express Mail mailing label and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied. Applicants have provided a copy of the Express Mail mailing label, a copy of the Pickup Service Statement for 06 August 2007, track and confirm information for this package and account transaction information for this package.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 06 August 2007 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) and Invitation to Correct Priority Claim and/or Notification

of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110) mailed 17 September 2007, are **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Enc: Corrected Form PCT/RO/105
Request (Form PCT/RO/101), page 1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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05 DEC 2007

SPECKMAN LAW GROUP PLLC
1201 THIRD AVENUE, SUITE 330
SEATTLE, WA 98101

In re Application of BROOKS RAND LLC :
PCT Application No.: PCT/US2007/017538 :
Int. Filing Date: 02 August 2007 : DECISION
Priority Date Claimed: 01 August 2006 :
Attorney Docket No.: 13433.1001PC :
For: AUTOMATED SYSTEM FOR DETECTION :
OF CHEMICAL COMPOUNDS :

This is in response to applicant's "Request for Restoration of Right of Priority by Receiving Office Under PCT Rule 26 *bis*.3" filed 28 September 2007.

BACKGROUND

On 02 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 28 September 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

In accordance with the interim procedures (in effect prior to November 9, 2007) regarding a request for restoration of a right of priority, such a request will be treated as a petition under 37 CFR 1.182. See http://www.uspto.gov/web/offices/pac/dapps/pct/ann.htm. The requisite $400.00 petition fee has been provided.

The petition was filed within two months after the expiration of the priority period. Furthermore, the petition includes an appropriate statement of unintentional delay. Therefore, the requirements for a request to restore a right of priority have been met.

CONCLUSION

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

This application is being forwarded to the (RO/US) for further processing in accordance with this decision. A copy of this decision is being sent to the International Bureau.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: Notification of Decision on Request to Restore Right of Priority (Form PCT/RO/159)

20 AUG 2008
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701 FIFTH AVENUE
SEATTLE, WA 98104-7064

In re Application of :
HOMESTEAD CLINICAL CORPORATION :
PCT Application No.: PCT/US2007/017868 : DECISION
Int. Filing Date: 09 August 2007 :
Priority Date Claimed: 09 August 2006 :
Attorney Docket No.: 460092.405PC :
For: ORGAN-SPECIFIC PROTEINS AND :
METHODS OF THEIR USE

This is in response to applicant's "Petition to Re-Submit Sequence Listings" filed 31 July 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

On 09 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 31 July 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the complete sequence listing in electronic form and sequence listing related tables were originally filed on 09 August 2007. Specifically, the copy of the return postcard, which includes the complete sequence listing in electronic form and sequence listing related tables in its itemized contents and which bears a USPTO date stamp of 09 August 2007, serves as *prima facie* evidence that the complete sequence listing in electronic form and sequence listing related tables were received by the USPTO on 09 August 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

This application is being returned to the RO/US for further processing, including forwarding a copy of this decision to the International Bureau.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

12 NOV 2008

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MARY E. BAK
HOWSON AND HOWSON LLP
501 OFFICE CENTER DRIVE
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FORT WASHINGTON PA PENNSYLVANIA 19034

In re Application of: THYMON, LLC
PCT No.: PCT/US2007/017874
International Filing Date: 14 August 2007
Priority Date: 14 August 2006
Atty Docket No.: GGP8APCT
For: COMPOSITIONS AND METHODS FOR THE TREATMENT AND PROPHYLAXIS OF MULTIPLE STRAINS OF SUBTYPES OF HIV-1

DECISION ON PETITION

This decision is issued in response to the "Petition Under 37 CFR 1.181(a)(1) Requesting Withdrawal Of Form PCT/ISA/203" filed 30 September 2008. No petition fee is required.

BACKGROUND

On 14 August 2007, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. Among the materials filed on 14 August 2007 was a computer readable form (CRF) of the sequence listing contained in the application. Upon review, the CRF provided by applicant was found to be in unacceptable form.

On 08 August 2008, the United States International Searching Authority (ISA/US) mailed an "Invitation To Furnish Nucleotide And/Or Amino Acid Sequence Listing And/Or Tables Related Thereto Complying With Standard And/Or Technical Requirements" (Form PCT/ISA/225) indicating that additional sequence listing materials were required.

On 28 August 2008, applicants filed a response to the Form PCT/ISA/225 that included a new CRF of the sequence listing. Upon review, this CRF was again found to be in unacceptable form.

On 02 September 2008, applicants filed a supplemental response to the Form PCT/ISA/225 that included a third CRF of the sequence listing containing corrections to the sequence listing. Upon review, this CRF was again found to be in unacceptable form.

On 24 September 2008, the ISA/US mailed a "Notification Of transmittal Of The International Search Report And The Written Opinion Of The International Searching Authority, Or The Declaration" (Form PCT/ISA/202), a "Declaration Of Non-Establishment Of International Search Report" (Form PCT/ISA/203), and the "Written Opinion Of The

International Searching Authority" (Form PCT/ISA/237). These materials indicated that indicating that a meaningful search could not be carried out based on applicant's failure to provide an acceptable CRF of the sequence listing contained in the application.

On 30 September 2008, applicant filed the petition considered herein, accompanied by a revised CRF of the sequence listing (upon review, this CRF was found to be in acceptable form). The petition requests withdrawal of the Form PCT/ISA/203 and the issuance of an appropriate International Search Report and Written Opinion (ISR/WO) based on the revised CRF included with the petition.

DISCUSSION

In the present petition, applicant asserts that the "Invitation To Furnish Nucleotide And/Or Amino Acid Sequence Listing And/Or Tables Related Thereto Complying With Standard And/Or Technical Requirements" (Form PCT/ISA/225) mailed 08 August 2008 was accompanied only by a one-page document stating that the CRF was defective, with no indication as to any specific defects contained in the sequence listing provided. A copy of the materials received by applicant is attached to the present petition. Because applicant was not provided with an error report indicating the specific errors in the sequence listing format, the new CRF provided by applicant in response to the PCT/ISA/225 did not correct such defects and therefore remained defective.

The petition indicates that applicant did not receive an error report indicating the specific defects contained in the provided sequence listing until a copy of such report was included with the Forms PCT/ISA/220, PCT/ISA/203 and PCT/ISA/237 mailed 24 September 2008.

Based on applicant's statements in the present petition and a review of the application file, it is concluded that applicant was not timely provided with an error report identifying the defects present in the CRF of the sequence listing filed herein. Under these circumstances, it is appropriate for the forms issued by this Office on 24 September 2008, including the Form PCT/ISA/203, to be vacated and for a proper ISR/WO to be generated based on the corrected CRF submitted by applicant with the present petition.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "Notification Of transmittal Of The International Search Report And The Written Opinion Of The International Searching Authority, Or The Declaration" (Form PCT/ISA/202), "Declaration Of Non-Establishment Of International Search Report" (Form PCT/ISA/203), and "Written Opinion Of The International Searching Authority" (Form PCT/ISA/237) mailed 24 September 2008 are hereby **VACATED**.

This application is being referred for further processing in accordance with this decision, including the preparation of an International Search Report and Written Opinion of the International Searching Authority.

Richard M. Ross
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Office of PCT Legal Administration
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20 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK, NY 10017-6702

In re Application of GERCHBERG :
PCT Application No.: PCT/US2007/018008 :
Int. Filing Date: 02 November 2007 :
Priority Date Claimed: 16 August 2006 : DECISION
Attorney Docket No.: 10495-07-228 :
For: LIGHT MICROSCOPE WITH NOVEL DIGITAL METHOD TO ACHIEVE SUPER-RESOLUTION :

This is in response to applicant's "Petition Under 37 C.F.R. §§ 1.182 and 1.183" filed 15 February 2008.

BACKGROUND

On 14 August 2007, applicant filed purported international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 30 October 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103) and a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which indicated that the naming of a deceased person as applicant in the Request was improper.

On 02 November 2007, applicant filed replacement pages for the Request (Form PCT/RO/101), which named the applicant.

On 18 December 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), which indicated 02 November 2007 as the International Filing Date.

On 15 February 2008, applicant filed the present petitions under 37 CFR 1.182 and 37 CFR 1.183.

DISCUSSION

I. Petition Under 37 CFR 1.182

The petition requests the RO/US to accord the present international application an International Filing Date of 14 August 2007. The petition states that the deceased inventor Ralph Gerchberg was mistakenly identified as the applicant on the Request (Form PCT/RO/101).

PCT Article 11(1)(iii)(c) provides that in order to obtain a filing date, the international application must contain, *inter alia*, "the name of the applicant, as prescribed."

PCT Rule 20.1(b) states,

> For the purposes of Article 11(1)(iii)(c), it shall be sufficient to indicate the name of the applicant in a way which allows the identity of the applicant to be established even if the name is misspelled, the given names are not fully indicated, or, in the case of legal entities, the indication of the name is abbreviated or incomplete.

37 CFR 1.422 states, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America."

In the present case, the papers filed on 14 August 2007 did not contain the name of the applicant, Louise Gerchberg. Furthermore, the name of the applicant was not indicated in a way which allowed the identity of the applicant, Louise Gerchberg, to be established. The naming of "Ralph W. Gerchberg (deceased)" as applicant on the Request was clearly free of any misspelling, abbreviation, or lack of completion, and cannot reasonably be deemed to allow the RO/US to establish the identity of Louise Gerchberg. Contrary to petitioner's assertion, the name of Louise Gerchberg was not "unambiguously identified". In fact, the Louise Gerchberg's name does not appear on any of the papers filed on 14 August 2007. It cannot be presumed that a particular person who may have the same mailing address as a deceased inventor is the legal representative of the deceased inventor.

Under 37 CFR 1.422, Ralph Gerchberg cannot be an applicant in the present international application. Rather, as one of applicant's attorneys apparently realized before the erroneous indication was filed, Ralph Gerchberg's legal representative, Louise Gerchberg, must be listed as the applicant. See PCT Receiving Office Guidelines, ¶¶97-98, and PCT Applicant's Guide, ¶¶433-434. Because a deceased person cannot be listed as an applicant in an international application and because the applicant, Louise Gerchberg, was not named in the papers filed 14 August 2007, the papers filed 14 August 2007 cannot be accorded a filing date of 14 August 2007 under Article 11 of the PCT.

II. Petition Under 37 CFR 1.183

The petition alternatively requests waiver of any rule that would otherwise prevent the present application from being accorded a filing date of 14 August 2007.

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). (Emphasis added.)

The International Filing Date is determined by PCT Article 11. The USPTO does not have authority to waive provisions of the PCT or the PCT Regulations. Accordingly, relief under 37 CFR 1.183 is not appropriate in the present case.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.183 is DISMISSED without prejudice.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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21 NOV 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of GERCHBERG	:	
PCT Application No.: PCT/US2007/018008	:	
Int. Filing Date: 02 November 2007	:	
Priority Date Claimed: 16 August 2006	:	DECISION
Attorney Docket No.: 10495-07-228	:	
For: LIGHT MICROSCOPE WITH NOVEL DIGITAL METHOD TO ACHIEVE SUPER-RESOLUTION	:	

This is in response to applicant's "Petition Under 37 C.F.R. §§ 1.182 and 1.183 Request for Reconsideration" filed 15 February 2008.

BACKGROUND

On 14 August 2007, applicant filed purported international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 30 October 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103) and a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which indicated that the naming of a deceased person as applicant in the Request was improper.

On 02 November 2007, applicant filed replacement pages for the Request (Form PCT/RO/101), which named the applicant.

On 18 December 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), which indicated 02 November 2007 as the International Filing Date.

On 15 February 2008, applicant filed petitions under 37 CFR 1.182 and 37 CFR 1.183.

On 20 August 2008, this Office mailed a decision dismissing the 15 February 2008 petitions.

On 17 October 2008, applicant filed the present renewed petitions under 37 CFR 1.182 and 37 CFR 1.183.

DISCUSSION

I. Petition Under 37 CFR 1.182

The renewed petition states that the name of the applicant was indicated in a way which allowed the identity of the applicant to be established. The petition makes a statement regarding the laws of the state where the deceased resided in establishing that Louise Gerchberg is the legal representative of the deceased inventor Ralph Gerchberg. However, the Office has not called into question whether Louise Gerchberg is actually the legal representative of Ralph Gerchberg or when Louise Gerchberg actually became the legal representative. Rather, at issue is whether the mere indication of "GERCHBERG, Ralph W. (deceased)" was sufficient to allow the identity of the Louise Gerchberg to be established. As stated in the decision mailed 20 August 2008, Louise Gerchberg's name does not appear on any of the papers filed on 14 August 2007. It is not incumbent upon the Office to research state law or to inquire as to the identity of the legal representative of a deceased individual. PCT Article 11(1)(iii)(c) places the burden of identification on applicant. The petition states that the indication of "GERCHBERG, Ralph W. (deceased)" should be regarded as merely being incomplete and thus sufficient under PCT Rule 20.1(b). However, the papers filed 14 August 2007 did not include any part of the name "Louise Gerchberg" (e.g. "Mrs. Gerchberg", "spouse of", etc.) and did not indicate a title such as "legal representative", "administrator", or "executor". Accordingly, the name of the applicant was completely absent and not simply incomplete.

II. Petition Under 37 CFR 1.183

The renewed petition states that the Office has the authority to waive 37 CFR 1.421 and/or 37 CFR 1.422.

37 CFR 1.422 states, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America."

However, 37 CFR 1.422 permits Louise Gerchberg to file an international application. The petition does not explain why suspension of 37 CFR 1.422 is necessary or even desirable. If petitioner's intent is to allow a deceased individual to be the applicant, doing so would be in conflict with PCT Article 9(1), which requires the applicant to be a resident and national of a Contracting State.

With regard to 37 CFR 1.421, the petition fails to specify the specific provision of the rule which should be suspended.

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.182 is DISMISSED without prejudice.

For the reasons set forth in §II above, the renewed petition under 37 CFR 1.183 is DISMISSED without prejudice.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

05 MAY 2009

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NEW YORK, NY 10017-6702

In re Application of GERCHBERG	:	
PCT Application No.: PCT/US2007/018008	:	
Int. Filing Date: 02 November 2007	:	
Priority Date Claimed: 16 August 2006	:	DECISION
Attorney Docket No.: 10495-07-228	:	
For: LIGHT MICROSCOPE WITH NOVEL DIGITAL METHOD TO ACHIEVE SUPER-RESOLUTION	:	

This is in response to applicant's "Petition Under 37 C.F.R. §§ 1.182 and 1.183 Request for Reconsideration" filed 21 January 2009.

BACKGROUND

On 14 August 2007, applicant filed purported international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 30 October 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103) and a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which indicated that the naming of a deceased person as applicant in the Request was improper.

On 02 November 2007, applicant filed replacement pages for the Request (Form PCT/RO/101), which named the applicant.

On 18 December 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), which indicated 02 November 2007 as the International Filing Date.

On 15 February 2008, applicant filed petitions under 37 CFR 1.182 and 37 CFR 1.183.

On 20 August 2008, this Office mailed a decision dismissing the 15 February 2008 petitions.

On 17 October 2008, applicant filed renewed petitions under 37 CFR 1.182 and 37 CFR 1.183.

On 21 November 2008, this Office mailed a decision dismissing the 17 October 2008 petitions.

On 21 January 2009, applicant filed the present renewed petitions under 37 CFR 1.182 and 37 CFR 1.183.

DISCUSSION

I. Petition Under 37 CFR 1.182

The renewed petition states that the Office has offered no authority for its interpretation that the application papers submitted on 14 August 2007 did not contain the name of the applicant as set forth in PCT Article 11(1)(iii)(c). However, the decision mailed 20 August 2008 specifically referenced PCT Rule 20.1(b). Furthermore, such decision explained that the mere indication of "GERCHBERG, Ralph W. (deceased)" was clearly free of any misspelling, abbreviation, or lack of competition, and did not otherwise allow the identity of Louise Gerchberg to be established. The petition states that Rule 20.1(b) does not indicate that the defects listed therein are intended to be an exhaustive list and was intended to save applications from clerical errors. However, even assuming *arguendo* that the intent of Rule 20.1(b) was to provide a remedy for clerical errors, there must be a limit to the type or degree of clerical error. Otherwise, one would be able to remedy a complete omission of an indication of the applicant's name under Rule 20.1(b). Accordingly, Rule 20.1(b) specifically sets forth that the indication of the applicant's name must allow the identity of the applicant to be established. In the present case, there was nothing in the papers filed 14 August 2007 that included any part of the name "Louise Gerchberg" (e.g. "L. Gerchberg", "Mrs. Gerchberg", "spouse of", etc.) or indicated a title such as "legal representative", "administrator", or "executor". Therefore, under the standard set forth in Rule 20.1(b), the papers filed 14 August 2007 did not contain the name of the applicant.

II. Petition Under 37 CFR 1.183

37 CFR 1.422 states, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America."

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). (Emphasis added.)

The petition states that nothing in 37 CFR 1.422 directs the form of words to be used in the application papers, and thus the Office has authority to accord the present application an international filing date based on the indications present on 14 August 2007. However, the petition fails to identify the specific portion of any rule which petitioner believes should be suspended under 37 CFR 1.183. The International Filing Date is determined by PCT Article 11. The USPTO does not have authority to waive provisions of the PCT or the PCT Regulations. Accordingly, relief under 37 CFR 1.183 is not indicated in the present case.

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.182 is DISMISSED without prejudice.

For the reasons set forth in §II above, the renewed petition under 37 CFR 1.183 is DISMISSED without prejudice.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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UNITED STATES PATENT AND TRADEMARK OFFICE

0 4 DEC 2009

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In re Application of GERCHBERG	:	
PCT Application No.: PCT/US2007/018008	:	
Int. Filing Date: 02 November 2007	:	
Priority Date Claimed: 16 August 2006	:	DECISION
Attorney Docket No.: 10495-07-228	:	
For: LIGHT MICROSCOPE WITH NOVEL DIGITAL METHOD TO ACHIEVE SUPER-RESOLUTION	:	

This is in response to applicant's "Petition Under 37 C.F.R. §§ 1.182 and 1.183 Request for Reconsideration and Request for Higher-Level Review" filed 01 July 2009.

BACKGROUND

On 14 August 2007, applicant filed purported international application papers with the United States Receiving Office (RO/US). The PCT Request (Form PCT/RO/101) listed "GERCHBERG, Ralph W. (deceased)" as the sole applicant. The submission was assigned the above-identified International Application Number.

On 30 October 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103), which stated that the name of the applicant was not properly indicated, and a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which stated that the naming of a deceased person as applicant in the PCT Request was improper.

On 02 November 2007, applicant filed replacement pages for the PCT Request whereby Louise Gerchberg was named as the applicant.

On 18 December 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), which indicated 02 November 2007 as the International Filing Date, i.e. the date the correction under PCT Article 11(2) was received.

On 15 February 2008, applicant filed petitions under 37 CFR 1.182 and 37 CFR 1.183, requesting that the international filing date be changed to 14 August 2007.

On 20 August 2008, this Office mailed a decision dismissing the 15 February 2008 petitions.

On 17 October 2008, applicant filed renewed petitions under 37 CFR 1.182 and 37 CFR 1.183.

On 21 November 2008, this Office mailed a decision dismissing the 17 October 2008 petitions.

On 21 January 2009, applicant filed second renewed petitions under 37 CFR 1.182 and 37 CFR 1.183.

On 05 May 2009, this Office mailed a decision dismissing the 21 January 2009 renewed petitions.

On 01 July 2009, applicant filed the present third renewed petitions under 37 CFR 1.182 and 37 CFR 1.183.

DISCUSSION

I. Legal Basis

PCT Article 11 specifies that the international filing date is the date the international application papers are received, provided that the international application papers contain, *inter alia*, the name of the applicant. See PCT Article 11(1)(iii)(c).

PCT Rule 20.1(b) states,

> For the purposes of Article 11(1)(iii)(c), it shall be sufficient to indicate the name of the applicant in a way which allows the identity of the applicant to be established even if the name is misspelled, the given names are not fully indicated, or, in the case of legal entities, the indication of the name is abbreviated or incomplete.

37 CFR 1.422 states, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America."

The successor to the rights of a deceased applicant must be indicated in the request as the applicant. The indication should be made as follows: SMITH, Alfred, legal representative of JONES, Bernard (deceased) or JONES, Helen, sole heiress of JONES, Bernard (deceased). See PCT Receiving Office Guidelines, ¶ 98, and PCT Applicant's Guide, ¶433.

II. Analysis of the Facts

As the legal representative of the deceased inventor Ralph Gerchberg, Louise Gerchberg is permitted to file an international application. See 37 CFR 1.422.

The purported international application papers filed on 14 August 2007 did not contain the name of the applicant Louise Gerchberg as required under PCT Article 11(1)(iii)(c).

The indication of "GERCHBERG, Ralph W. (deceased)" in the PCT Request filed 14 August 2007 did not allow the identity of Louise Gerchberg to be established under PCT Rule 20.1(b). In particular, there is no issue regarding the misspelling Louise Gerchberg's name, the full indication of Louise Gerchberg's given name, the abbreviation Louise Gerchberg's name, or the partial completion Louise Gerchberg's name. Rather, the papers filed on 14 August 2007 totally omitted Louise Gerchberg's name.

Because the name of Ralph Gerchberg's legal representative, i.e. Louise Gerchberg, was required to be listed on the international application papers, and because such name was completely absent from the papers filed 14 August 2007, there is no legal basis for according the papers filed 14 August 2007 an international filing date under PCT Article 11.

III. Petition Under 37 CFR 1.182

Applicant's arguments set forth in the petitions filed 15 February 2008, 17 October 2008, and 21 January 2009 and the Office's responses thereto are not repeated herein.

The renewed petition states that the Office has not offered any precedential court opinion for its interpretation of PCT Article 11(1)(iii)(c). However, the Office is required to perform its duties as a Receiving Office in accordance with the PCT, the PCT Regulations, and U.S. law. 35 U.S.C. 364(a). Such duties include according purported international application papers an international filing date when certain conditions are met. Such conditions are set forth in PCT Article 11 as further explained by the PCT Regulations, and the Office is not required to provide a court decision, even if one existed, that supports the application of the plain meaning of the language of the treaty and its associated rules. It is noted that applicant has not provided any legal authority which states that the complete omission of the applicant's name from an international application should be deemed as sufficiently identifying the applicant's name.

The renewed petition further states that the papers filed 14 August 2007 did include part of Louise Gerchberg's name, i.e. the surname Gerchberg. However, the indication of "GERCHBERG, Ralph, W. (deceased)" cannot reasonably be deemed as a listing of part of the name of the legal representative. Although the surname of a deceased inventor and the surname of the legal representative are often the same, the Office cannot presume such to be the case. Furthermore, even assuming *arguendo* that the surname of the legal representative was somehow determined to be Gerchberg, there could be multiple individuals with the surname Gerchberg who could be the legal representative of Ralph Gerchberg. Accordingly, PCT Rule 20.1(b)

specifically mentions the situation where the given name of the applicant is not fully identified, not the situation where the given name lacks any partial identifier such as an initial or a title. In the present case, not only is the given name of Louise Gerchberg absent, the surname of Louise Gerchberg is entirely missing as well. The papers filed 14 August 2007 provided the name of the deceased inventor only, and the requirement that the legal representative's name be sufficiently identified cannot be met by completely omitting the legal representative's name.

The renewed petition further suggests that the Office should have used the provided mailing address or phone number to try and determine the identity of the applicant. However, the responsibility of providing the information required by PCT Article 11 lies solely with the applicant. It is not incumbent upon the Office to embark upon a search for the applicant's name. Rather, the responsibility of the Receiving Office is to check whether the PCT Article 11 requirements have been submitted and, if not, invite the applicant to furnish any missing elements. See PCT Rule 20.1(a) and 20.3(a).

IV. Petition Under 37 CFR 1.183

37 CFR 1.421 states,

> (a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office. If an international application does not include an applicant who is indicated as being a resident or national of the United States of America, and at least one applicant:
> (1) Has indicated a residence or nationality in a PCT Contracting State, or
> (2) Has no residence or nationality indicated, applicant will be so notified
> and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(4), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office (see also § 1.412(c)(6)).
> (b) Although the United States Receiving Office will accept international applications filed by any resident or national of the United States of America for international processing, for the purposes of the designation of the United States, an international application must be filed, and will be accepted by the Patent and Trademark Office for the national stage only if filed, by the inventor or as provided in §§ 1.422 or 1.423. Joint inventors must jointly apply for an international application.
> (c) For the purposes of designations other than the United States, international applications may be filed by the assignee or owner.
> (d) A registered attorney or agent of the applicant may sign the international application Request and file the international application for the applicant. A separate power of attorney from each applicant may be required.
> (e) Any indication of different applicants for the purpose of different Designated Offices must be shown on the Request portion of the international application.
> (f) Requests for changes in the indications concerning the applicant, agent, or common representative of an international application shall be made in accordance with PCT Rule 92bis and may be required to be signed by all applicants.
> (g) Requests for withdrawals of the international application, designations, priority claims, the Demand, or elections shall be made in accordance with PCT Rule 90bis and must be signed by all applicants. A separate power of attorney from the applicants will be required for the purposes of any request for a

> withdrawal in accordance with PCT Rule 90bis which is not signed by all applicants. The submission of a separate power of attorney may be excused upon the request of another applicant where one or more inventors cannot be found or reached after diligent effort. Such a request must be accompanied by a statement explaining to the satisfaction of the Director the lack of the signature concerned.

37 CFR 1.422 states, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may file an international application which designates the United States of America."

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). (Emphasis added.)

The renewed petition states that the Office has the authority to tailor the application of 37 CFR 1.421 and 1.422 in the interests of justice. However, although 37 CFR 1.183 permits the Director to waive a requirement of 37 CFR 1.421 or 1.422, applicant has not specified any portion of either rule which should be suspended in the interests of justice.

The renewed petition further states that since the PCT Receiving Office Guidelines and the PCT Applicant's Guide do not have the force of law, the Office is not constrained by such sources. However, the Office has not stated that applicant's failure to follow the PCT Receiving Office Guidelines or the PCT Applicant's Guide is the cause of applicant's failure to satisfy PCT Article 11. The PCT Receiving Office Guidelines and the PCT Applicant's Guide nevertheless support the Office's position that the name of the applicant was not sufficiently identified on 14 August 2007. The international filing date is accorded under PCT Article 11. In the present case, since the PCT Article 11(1)(iii)(c) is at issue, PCT Rule 20.1(b) is determinative. As discussed above, the name Louise Gerchberg was completely absent from the papers filed 14 August 2007 and thus did not allow the identity of Louise Gerchberg to be identified. Because the USPTO does not have authority to waive provisions of PCT Article 11 or PCT Rule 20.1(b), relief under 37 CFR 1.183 cannot be granted in the present case.

CONCLUSION

For the reasons set forth above, the renewed petitions under 37 CFR 1.182 and 37 CFR 1.183 are **DENIED**.

This decision may be viewed as a final agency decision. See MPEP 1002.02.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT

Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Charles A. Pearson
Director
Office of PCT Legal Administration

CAP/btl

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13 DEC 2007

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In re Application of	:	DECISION ON
FONAR CORPORATION	:	
PCT No.: PCT/US2007/018031	:	
Int. Filing Date: 14 August 2007	:	
Priority Date: 14 August 2006	:	PETITION UNDER
Attorney's Docket No.: DAMADIAN 120	:	
FOR: FERROMAGNETIC FRAME MAGNET	:	
WITH SUPERCONDUCTING COILS	:	37 CFR 1.10 (c)

This decision is in response to the "PETITION TO CORRECT FILING DATE AND REQUEST TO RESTORE THE PRIORITY CLAIM ," filed on 05 December 2007, which is being treated as a petition under 37 CFR 1.10(c) requesting that the international filing date of 16 August 2007 changed to 14 August 2007 for the above identified international application. No fee is required for this petition.

BACKGROUND

This petition is to correct the international filing date of the above international application that was purported to have been filed on 14 August 2007. The United States Receiving Office (RO/US) on 06 December 2007 mailed applicant a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) stating that the international filing date is 16 August 2007.

On 5 December 2007, the present petition was filed to this Office requesting that the application be accorded a filing date of 14 August 2007, which would be pursuant to the "Express Mail" provisions under 37 CFR 1.10(c). The petition includes, *inter alia*, a copy of the customer receipt of "Express Mail" Label No. EV 980041350 US.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition was filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EV980041350US was placed, *inter alia*, on the PCT International Application Transmittal Letter. CFR 1.10(c)(2). The copy of the customer receipt of "Express Mail" Label No. EV980041350US filed with the present petition identifies the day of deposit in the "Date In" box, as 14 August 2007. 37 CFR 1.10(c)(3).

Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED** and the date of receipt of the above international application at the USPTO is 14 August 2007. Form PCT/RO/105 mailed on 06 December 2007 is hereby **VACATED**.

A new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) and corrected first sheet of the Request indicating an international filing date of **14 August 2007** is being forwarded with a copy of this decision to the International Bureau.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Enclosed: First page of the Request
Form PCT/RO/105

CC: The International Bureau of WIPO
34, Chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

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In re Application of	:	
HARRIS STRATEX NETWORKS, INC.	:	
PCT Application No.: PCT/US2007/018088	:	
Int. Filing Date: 14 August 2007	:	
Priority Date Claimed: 14 June 2006	:	DECISION
Attorney Docket No.: 650001-562.	:	
For: SYSTEM AND METHOD FOR ANTICIPATORY RECEIVER SWITCHING BASED ON SIGNAL QUALITY ESTIMATION	:	

This is in response to applicant's "Request to Correct the Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority" filed 19 October 2007, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 14 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 10 October 2007, the RO/US mailed, *inter alia*, an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110).

On 19 October 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

In accordance with the interim procedures (in effect prior to November 9, 2007) regarding a request for restoration of a right of priority, such a request will be treated as a

petition under 37 CFR 1.182. See http://www.uspto.gov/web/offices/pac/dapps/pct/ann.htm. The requisite $400.00 petition fee has been submitted.

The Request (Form PCT/RO/101) was filed within two months after the expiration of the priority period and contained a request to restore a right of priority. However, the present petition does not include an appropriate statement of unintentional delay as set forth in Annex B to Form PCT/RO/110.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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ATTACHMENT: Notification of Intended Refusal of Request to Restore Right of Priority and/or Invitation to Furnish Declaration or Other Evidence (Form PCT/RO/158)

28 NOV 2007

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In re Application of	:	
HARRIS STRATEX NETWORKS, INC.	:	
PCT Application No.: PCT/US2007/018088	:	
Int. Filing Date: 14 August 2007	:	
Priority Date Claimed: 14 June 2006	:	DECISION
Attorney Docket No.: 650001-562	:	
For: SYSTEM AND METHOD FOR ANTICIPATORY RECEIVER SWITCHING BASED ON SIGNAL QUALITY ESTIMATION	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under the Patent Cooperation Treaty.

BACKGROUND

On 14 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 10 October 2007, the RO/US mailed, *inter alia*, an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110).

On 19 October 2007, applicant filed a petition under 37 CFR 1.182.

On 15 November 2007, this Office mailed a decision dismissing the 19 October 2007 petition.

DISCUSSION

In accordance with the interim procedures (in effect prior to November 9, 2007) regarding a request for restoration of a right of priority, such a request will be treated as a

petition under 37 CFR 1.182. See http://www.uspto.gov/web/offices/pac/dapps/pct/ann.htm. The requisite $400.00 petition fee has been submitted. Applicant filed a request for restoration of a right of priority on 14 August 2007, which should have been treated as a petition under 37 CFR 1.182. Applicant subsequently filed a petition under 37 CFR 1.182 on 19 October 2007.

A review of the papers filed 14 August 2007 reveals that an appropriate statement of unintentional delay was submitted.

CONCLUSION

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

The decision mailed 15 November 2007 is hereby VACATED.

The Notification of Intended Refusal of Request to Restore Right of Priority and/or Invitation to Furnish Declaration or Other Evidence (Form PCT/RO/158) mailed 19 November 2007 is hereby VACATED.

The application is being forwarded to the RO/US for processing in accordance with this decision. A copy of this decision is being sent to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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ATTACHMENT: Notification of Decision on Request to Restore Right of Priority (Form PCT/RO/159)

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In re Application of : DECISION ON PETITION
NELDON P. JOHNSON :
PCT No.: PCT/US07/18203 :
Int. Filing Date: 16 August 2007 :
Atty. Docket No.: 395-17-001PC :
For: VOLTAGE CONTROLLER :

This is a decision on applicant's "Response to Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority" filed in the United States Patent and Trademark Office (USPTO) on 15 January 2008.

BACKGROUND

On 16 August 2007, applicant filed international application No. PCT/US07/18203, which claimed a priority date of 15 August 2006.

On 04 December 2007, an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority" (Form PCT/IB/316), *inter alia*, was mailed.

On 15 January 2008, applicant filed the present petition with the United States Receiving Office indicating that applicant had filed the PCT Request and international application on 15 August 2007 using the United States Postal Service Express Mail.

DISCUSSION

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 USPTO records indicate that the international application papers were filed in the USPTO on 16 August 2007. A review of the transmittal letter reveals that the "Express Mail" mailing label number (EB070907684US) is contained therein, satsifying Item (2) above. Petitioner provided a copy of the payment made by postage machine. This receipt indicates a purchase in the amount of $16.95, for the destination "22313"; however the receipt does not provide any indication of the Express Mail number associated with the transaction on 15 August 2007.

Further, Petitioner has not submitted the required evidence concerning the Express mailing of the international application papers. A copy of the Customer Copy of the Express Mail label with the "Date-In" as entered by a USPS postal employee would be substantial evidence to provide the date of deposit with the USPS. Moreover, a review of the U.S. Postal Service Track and Confirm Statement (copy attached) indicates that the package bearing the above referenced Express Mail number was accepted by the USPS on 16 August 2007 at 1:16 pm.

The evidence of record is insufficient to establish with reasonable certainty that the international application papers were deposited with the USPS as an "Express Mail" Mailing on 15 August 2007. It cannot be concluded that Express Mail label Number EB070907684US was deposited with the USPS on 15 August 2007. Petitioner has not provided sufficient evidence of deposit of the papers at issue with the USPS on 15 August 2007. See MPEP Section 513.[1]

---

[1] The procedure in 37 CFR 1.10(a) requires the use of the "Express Mail Post Office to Addressee" service of the USPS. This service provides for the use of a mailing label on which the USPS clearly indicates the date on which it was deposited. Correspondence sent by the "Express Mail Post Office to Addressee" service is considered filed in the Office on the "date-in" entered by the USPS. The "date-in" on the "Express Mail" mailing label must be completed by the USPS, not by the applicant. For correspondence filed in accordance with 37 CFR 1.10, Office personnel will routinely look to the "Express Mail" mailing label, and stamp the "date-in" or other official USPS notation as the filing date of the correspondence. Accordingly, if the USPS enters the deposit date as its "date-in," the correspondence will receive the deposit date as its filing date. If the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. An applicant may file a petition under the conditions specified in 37 CFR 1.10(c), (d), * (e)>, (g), (h), or (i)< (discussed below) presenting whatever arguments and evidence that the paper or fee is entitled to a filing date other than the filing date accorded by the Office.

37 CFR 1.10(b) further provides that correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. On petition, the failure to obtain an "Express Mail" receipt with the "date-in"clearly marked may be considered an omission that could have been avoided by the exercise of due care, as discussed below. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, but do so at their own risk.

A paper or fee placed in an "Express Mail" box receptacle after the box has been cleared for the last time on a given day will be considered to be deposited as of the date of receipt ("date-in") indicated on the "Express Mail" mailing label by the Postal Service "Express Mail" acceptance clerk. 37 CFR 1.10(d) permits the Office to correct a USPS "date-in" error when the correspondence is deposited in an "Express Mail" drop box prior to last scheduled pick up of the day, that is, the time clearly marked on the "Express Mail" drop box indicating when the box will be cleared for the last time on the date of deposit. 37 CFR 1.10(d) sets forth the procedures to be followed to be entitled to such a correction.

Parties who do use drop boxes can protect themselves from uncertainty due to illegible mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d) * (e) , or (g). Evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

Without sufficient evidence to the contrary, the international filing date remains 16 August 2007.

CONCLUSION

Applicant's petition requesting that the international application be accorded an international filing date of 15 August 2007 is **DISMISSED WITH OUT PREJUDICE**.

The international filing date remains 16 August 2007.

Any reconsideration on the merits of the petition under 37 CFR §1.10(c) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.10(c)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

Enclosure: USPS Track & Confirm statement

United States Patent and Trademark Office

19 FEB 2008

Commissioner for Patents
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R. NEIL SUDOL
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

In re Application of	:	
MISONIX INCORPORATED	:	
PCT No.: PCT/US07/18316	:	
Int. Filing Date: 31 October 2007	:	DECISION
Requested Priority Date: 29 August 2007	:	
Attorney's Docket No.: M24-146WO	:	
For: Ultrasonic Debrider Probe	:	

This is in response to the correspondence filed on 31 October 2007.

BACKGROUND

On 17 August 2007, applicants filed this international application, including 1 drawing sheet.

On 30 October 2007, an Invitation To Correct Defects (Form PCT/RO/106) was mailed to applicants, identifying defects in the drawing. Also mailed, *inter alia*, was an Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing (Form PCT/RO/107) indicating that Figures 2a-8, referred to by the description, are, or appear to be, missing.

On 31 October 2007, applicants filed the instant response, including Figs. 1, 2A, 2B, 2C, 3A, 3B, 3C, 3D, 4, 4A, 4B, 4C, 4D, 4E, 5, 6, 7 and 8 on sheets 1/3, 2/3 and 3/3.

DISCUSSION

Applicants state in part that "Inadvertently, the application as originally filed contained an incorrect drawing sheet. The enclosed drawings relate to the specification as filed, and no new matter has been added. Applicant requests that the enclosed drawing sheets be substituted for the drawing sheet currently on file in the application." PCT Rule 20.5(c) provides that

> Where, following an invitation under paragraph (a) or otherwise, the applicant furnishes to the receiving Office, after the date on which all of the requirements of Article 11(1) were fulfilled but within the applicable time limit under Rule 20.7, a missing part referred to in paragraph (a) so as to complete the international application, that part shall be included in the application, and the receiving Office shall correct the international filing date to the date on which the receiving Office received that part, notify the applicant accordingly and proceed as provided for in the Administrative Instructions.

In the instant case, the drawings received on 31 October 2007 were filed after the 17 August 2007 fulfillment of Article 11(1) but within the time limit under Rule 20.7. Pursuant to Rule 20.5(c), said drawings are being included in the international application, and the international filing date is being corrected to their receipt date, 31 October 2007.

DECISION

The drawings filed on 31 October 2007 are **ACCEPTED**.

The international filing date is **CORRECTED** to **31 October 2007** as described above.

This application is being forwarded to the United States receiving Office (RO/US) for processing in accordance with this decision. The Form PCT/RO/105 mailed on 30 October 2007 is hereby **VACATED** in view of the correction of the international filing date.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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14 SEP 2007

JOHN R. VAN AMSTERDAM
WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Application of :
PRESIDENT AND FELLOWS OF HARVARD :
COLLEGE :
PCT Application No.: PCT/US2007/018428 :
Int. Filing Date: 20 August 2007 : DECISION
Priority Date Claimed: 21 August 2006 :
Attorney Docket No.: H0498.70280 :
For: IDENTIFICATION OF CONTACTINS AND :
L1-CAMS AS LIGANDS FOR THE :
AMYLOID PRECURSOR PROTEIN :

This is in response to applicant's "Petition Under 37 CFR to Change International Searching Authority to the United States Patent and Trademark Office" filed 12 September 2007, which is being treated under 37 CFR 1.182.

BACKGROUND

On 20 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 12 September 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

Although the PCT does not specifically provide for a change in the International Searching Authority (ISA) upon request, because the search copy for the present application has not been prepared and communicated, a change in ISA is permissible. The excess search fee paid will be refunded to Deposit Account No. 23-2825.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

29 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOSTON, MA 02210-2206

In re Application of :
PRESIDENT AND FELLOWS OF HARVARD :
COLLEGE :
PCT Application No.: PCT/US2007/018428 : DECISION
Int. Filing Date: 21 August 2007 :
Priority Date Claimed: 21 August 2006 :
Attorney Docket No.: H0498.70280 :
For: IDENTIFICATION OF CONTACTINS . . . :

This is in response to applicant's "Petition to Correct the International Filing Date Under 37 CFR 1.10" filed 16 January 2008.

BACKGROUND

On 21 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 20 August 2007.

On 16 November 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 16 January 2008, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the Transmittal Letter (Form PTO-1382) and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a "date-in" of 21 August 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MARK A. USSAI
MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202-4108

In re Application of	:	
Dresser-Rand Company	:	DECISION ON
PCT No.: PCT/US07/18476	:	
Int. Filing Date: 21 August 2007	:	PETITION UNDER
Requested Priority Date: 21 August 2006	:	
Attorney's Docket No.: 027298-9315	:	37 CFR 1.10
For: Position Feedback Device For Rotatable Member	:	

This is in response to the "Petition Under 37 C.F.R. 1.181" filed on 07 November 2007, which is being treated under 37 CFR 1.10(c) .

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Express Mail."

On 23 October 2007, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 20 August 2007 was mailed to applicants.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 21 August 2007, rather than 20 August 2007 as indicated on Form PCT/RO/105.

Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with **37 CFR 1.10(c)(1)**.

Regarding **37 CFR 1.10(c)(2),** review of the correspondence in question reveals that an Express Mail mailing label number, EB273240740US, was recorded on the Transmittal Letter accompanying and itemizing the filing of the instant international application; as such, 37 CFR 1.10(c)(2) has been satisfied.

With regard to **37 CFR 1.10(c)(3)**, counsel has provided a photocopy of the "Customer Copy" of Express Mail mailing label number EB273240740US, which shows a "date-in" of "8 21 07" as well as a USPS plug stamp dated "AUG 21 2007." Petitioner has also provided a copy of a USPS receipt showing payment for said Express Mail parcel on 21 August 2007. Based on the evidence now of record, it would be appropriate to conclude that the Express Mail parcel in question (EB273240740US) was in fact deposited with the USPS on 21 August 2007. As such, the requirements of 37 CFR 1.10(c) have been satisfied. Accordingly, the Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) mailed on 23 October 2007 is hereby **VACATED**.

DECISION

The petition is **GRANTED**, for the reasons described *supra*.

A new Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) is being issued, and a copy of the first page of the PCT Request (Form PCT/RO/101) bearing the correct international filing date of **21 August 2007** is attached hereto.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

enc.: Form PCT/RO/101, first page

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 07/18476

International Filing Date 21 AUG 2007

PCT International Application RO/US

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 027298-9315

Box No. I TITLE OF INVENTION

POSITION FEEDBACK DEVICE FOR ROTATABLE MEMBER

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

Dresser-Rand Company
Paul Clark Drive
P.O. Box 560
Olean, NY 14760-0560
US

Telephone No.

Facsimile No.

Applicant's registration No. with the Office

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

☒ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

USSAI, Mark A.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202-4108
US

Telephone No.
(215) 822-9104

Facsimile No.
(414) 271-0656

Agent's registration No. with the Office
42,195

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
MARK A. USSAI
MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WISCONSIN 53202-4108

Confirmation No: 7557

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.2(c))

Date of mailing *(day/month/year)*	10 Jan 2008
Applicant's or agent's file reference: 027298-9315	**IMPORTANT NOTIFICATION**

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2007/018476	21 Aug 2007	21 Aug 2006

Applicant: DRESSER-RAND COMPANY

Title of the invention: POSITION FEEDBACK DEVICE FOR ROTATABLE MEMBER

1. The applicant is hereby notified that the international application has been accorded the international application number and the international filing date indicated above.

2. The applicant is further notified that the record copy of the international application:

☒ was transmitted to the International Bureau on 23 Oct 2007

☐ has not yet been transmitted to the International Bureau for the reason indicated below and a copy of this notification has been sent to the International Bureau*:

☐ because the necessary national security clearance has not yet been obtained.

☐ because *(reason to be specified)*:

* The International Bureau monitors the transmittal of the record copy by the receiving Office and will notify the applicant (with Form PCT/IB/301) of its receipt. Should the record copy not have been received by the expiration of 14 months from the priority date, the International Bureau will notify the applicant (Rule 22.1(c)).

3. FOREIGN TRANSMITTAL LICENSE INFORMATION Completed by: GD

☐ Additional license for foreign transmittal not required. This subject matter is covered by a license already granted or the equivalent U.S. national application. Refer to that license for information concerning its scope.

☐ License for foreign transmittal not required. 37 CFR. 5.11(e)(1) or 37 CFR 5.11(e)(2). However, a license may be required for additional subject matter. See 37 CFR 5.15(b).

☒ Foreign transmittal license granted. 35 U.S.C. 184; 37 CFR 5.11 on 17 Oct 2007 (date):

☐ 37 CFR 5.15(a) ☒ 37 CFR 5.15(b)

Name and mailing address of the receiving Office	Authorized officer
Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	George Dombroske
Facsimile No. 571-273-3201	Telephone No. 571-272-3283

Form PCT/RO/105 (April 2007)

16 JUL 2009

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Commissioner for Patents
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Ericka A. Jacobs
Paul, Hastings, Janofsky & Walker LLP
P.O. Box 919092
San Diego, California 92191-9092

In re Application of
TC DIGITAL GAMES LLC
PCT No.: PCT/US07/18762
International Filing Date: 24 August 2007
Priority Date: None
Attorney's Docket No.: 73044.00100.
For: SYSTEM AND METHODS FOR MULTI-PLATFORM TRADING CARD GAME

: DECISION ON PETITION

This decision is issued in response to applicant's "Petition to Remove Inventors from PCT Application" filed 25 June 2009, which includes a request that the application be accepted without the signature of applicant/co-inventors Martin Rauff-Nielsen and Jacob R.S. Andersen. This request has been treated as a petition under PCT Rule 4.15(b). No petition fee is required.

BACKGROUND

This international application was filed on 24 August 2007. The PCT Request submitted as part of the international application was not executed by the applicant/inventors.

On 25 June 2009, applicant filed "Petition to Remove Inventors from PCT Application" which included a statement explaining the lack of signature as required under PCT Rule 4.15(b).

DISCUSSION

PCT RULE 4.15, *Signature*, states (emphasis added):

> (a) Subject to paragraph (b), the Request shall be signed by the applicant or, if there is more than one applicant, by all of them.
>
> (b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and

> where an applicant for that designated State who is an inventor refused to sign the **Request** or could not be found or reached after diligent effort, the Request need not be signed by that applicant if it is signed by at least one applicant and a statement is furnished explaining, to the satisfaction of the receiving office, the lack of the signature concerned.

Consistent with PCT Rule 4.15(b), 37 CFR 1.421(g) also contains a general requirement for a statement explaining to the satisfaction of the Commissioner the lack of an inventor's signature on the Request.

Here, applicant asserts that the nonsigning applicant/co-inventors, Martin Rauff-Nielsen and Jacob R.S. Andersen, have refused to execute a Power of Attorney form. Applicant has not, however, stated that Martin Rauff-Nielsen and Jacob R.S. Andersen have refused to sign the Request. Because the Rules refer only to a refusal to execute the Request, not a related power of attorney, the application may not be accepted under PCT Rule 4.15(b) and 37 CFR 1.421(g) at the present time.

CONCLUSION

For the reasons given above, applicant's petition that the international application be accepted under PCT Rule 4.15(b) without the signature of Martin Rauff-Nielsen and Jacob R.S. Andersen is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under PCT Rule 4.15."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A copy of this decision has been forwarded to the International Bureau.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

20 OCT 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ericka A. Jacobs
Paul, Hastings, Janofsky & Walker LLP
P.O. Box 919092
San Diego, California 92191-9092

In re Application of
TC DIGITAL GAMES LLC
PCT No.: PCT/US07/18762
International Filing Date: 24 August 2007
Priority Date: None
Attorney's Docket No.: 73044.00100.
For: SYSTEM AND METHODS FOR MULTI-PLATFORM TRADING CARD GAME

DECISION ON RENEWED PETITION UNDER 37 CFR 4.15 AND REQUEST UNDER PCT RULE 92BIS

This decision is issued in response to applicant's "Renewed Petition under PCT Rule 4.15" filed 16 September 2009, which includes a request that the application be accepted without the signature of applicant/co-inventors Martin Rauff-Nielsen and Jacob R.S. Andersen. No petition fee is required.

BACKGROUND

This international application was filed on 24 August 2007. The PCT Request submitted as part of the international application was not executed by the applicant/inventors.

On 25 June 2009, applicant filed "Petition to Remove Inventors from PCT Application" which included a statement explaining the lack of signature as required under PCT Rule 4.15(b). In a decision dated 16 July 2009, applicant's request under PCT rule 4.15 was dismissed without prejudice.

On 16 September 2009, applicant filed the present renewed request under PCT Rule 4.15.

DISCUSSION

PCT RULE 4.15, *Signature*, states (emphasis added):

> (a) Subject to paragraph (b), the Request shall be signed by the applicant or, if there is more than one applicant, by all of them.

> (b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor refused to sign the **Request** or could not be found or reached after diligent effort, the Request need not be signed by that applicant if it is signed by at least one applicant and a statement is furnished explaining, to the satisfaction of the receiving office, the lack of the signature concerned.

Consistent with PCT Rule 4.15(b), 37 CFR 1.421(g) also contains a general requirement for a statement explaining to the satisfaction of the Commissioner the lack of an inventor's signature on the Request.

Here, applicant asserts that the nonsigning applicant/co-inventors (Martin Rauff-Nielsen and Jacob R.S. Andersen) have refused to execute the Request. Further, petitioner asserts that Martin Rauff-Nielsen and Jacob R.S. Andersen were listed in the Request through inadvertent error. This explanation satisfies the requirements of PCT Rule 4.15(b) and 37 CFR 1.421. Accordingly, acceptance of the international application under PCT Rule 4.15(b) and 37 CFR 1.421(g) without the signatures of Martin Rauff-Nielsen and Jacob R.S. Andersen is appropriate.

Additionally, applicant has requested to remove Martin Rauff-Nielsen and Jacob R.S. Andersen as an applicant/inventors under PCT Rule 92bis. A "Request For Recording Of A Change" (Form PCT/RO/113) will be forwarded to the International Bureau indicating that Martin Rauff-Nielsen and Jacob R.S. Andersen should be removed from the above-identified application.

CONCLUSION

For the reasons given above, applicant's petition that the international application be accepted under PCT Rule 4.15(b) and 37 CFR 1.421(g) without the signatures of applicant/co-inventors Martin Rauff-Nielsen and Jacob R.S. Andersen, is **GRANTED**.

The international application is being returned to the United States Receiving Office for continued processing. A copy of this decision has been forwarded to the International Bureau.

Anthony Smith
Attorney-Advisor
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Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

26 MAR 2008

Stefanie Zilka
Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

In re Application of: LINNER, Jonathon et al.	:	DECISION
PCT Application No.: PCT/US2007/018930	:	
Int. Filing Date: 28 August 2007	:	
Priority Date: 28 August 2006	:	UNDER
Atty Docket No.: PA3613PCT	:	
For: SYSTEMS AND METHODS FOR THIRD PARTY SPONSORSHIP OF A NETWORK EVENT	:	37 CFR 1.10(c)

This decision is in response to applicant's communication filed 29 November 2007 requesting correction of the international filing date, which has been treated as a petition under 37 C.F.R. 1.10(c). No petition fee is required.

BACKGROUND

On 28 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 29 August 2007.

On 20 November 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 29 November 2007, applicant filed a petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the present petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter filed with the international application papers and the copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3) above, the copy of the Express Mail mailing label shows a "date-in" of 28 August 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 20 November 2007 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International
Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this
decision. A copy of this decision is being forwarded to the International Bureau (IB).

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: 571-272-3285

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

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

12 DEC 2007

Ranjana Kadle
HODGSON RUSS LLP
THE GUARANTY BUILDING
140 Pearl Street, Suite 100
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In re Application of
THE RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK
PCT No.: PCT/US2007/019055
Int. Filing Date: 30 August 2007
Priority Date: 30 August 2006
Docket No.: 11520.00649
For: DETECTING A BACTERIAL PROCESS IN CHRONIC RHINOSINUSITUS

DECISION

ON PETITION UNDER

37 CFR 1.10(c)

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 09 October 2007 which are treated as a petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicant filed the subject international application PCT/US2007/019055 using Express Mail service. The papers were deemed as received by the RO/US on 29 August 2007 and a date-stamped postcard receipt was mailed to applicant.

On 03 October 2007, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the international filing date (IFD) of the subject application is 29 August 2007 with a priority date of 30 August 2006.

On 09 October 2007, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of USPS Express Mail label No. EB107383850US.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be amended to 30 August 2007.

Any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the subject application reveals that all the requirements of 37 CFR 1.10(c) have been satisfied.

The Express Mail label number is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 30 August 2007. Applicant included a copy of the Customer Copy of Express Mail label No. EB107383850US which has a "Date Accepted" of "1 16 07" and is stamped by the USPS on its face as received on "AUG 30 2007."

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 mailed 03 October 2007 is hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an IFD date of **30 August 2007** and a priority date of 30 August 2006 will be mailed with this decision.

This application is being returned to the RO/US for further processing and for

the forwarding of a copy of the decision to the International Bureau.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

17 SEP 2008

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

J. Mitchell Jones
CASIMIR JONES, S.C.
101 Howard Street, Suite 350
San Francisco, CA 94105

In re Application of:	:	
SEMBA Inc. et al.	:	DECISION
PCT Application No.: PCT/US2007/019126	:	
Int. Filing Date: 30 August 2007	:	UNDER
Priority Date: 30 August 2006	:	
Atty Docket No.: SEMBA-30100	:	
For: VALVE MODULE AND METHODS FOR SIMULATED MOVING BED CHROMATOGRAPHY	:	37 CFR § 1.10 (c)

This decision is in response to applicants' "PETITION TO CHANGE THE INTERNATINAL FILING RECEIPT DATE" filed 03 March 2008, which has been treated as a petition under 37 CFR § 1.10(c). No petition fee is required.

BACKGROUND

As indicated on the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed on 30 November 2007, the present application was accorded an international filing date of 31 August 2007 by the United States Receiving Office (RO/US).

On 03 March 2007, applicants filed the present petition requesting the international filing date be corrected to 30 August 2007. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 287858991US.

DISCUSSION

Applicants request that the IFD in the above-captioned international application be corrected to 30 August 2007.

Any correspondence received by the United States Patent and Trademark Office ('Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 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 present petition was filed promptly as required under 37 CFR § 1.10(c)(1). The Transmittal Letter (Form PTO-1382) identified the "Express Mail" label number. The "Express Mail" mailing label bears a USPS date stamp of 30 August 2007. Accordingly, pursuant to 37 CFR § 1.10(c), the international filing date is appropriately corrected 30 August 2007.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 30 August 2007 is **GRANTED**. The application has a proper priority claim with a filing date of 30 August 2006.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 30 August 2007 will be mailed with this decision. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 30 November 2007 is hereby **VACATED**.

The application is being forwarded to the RO/US for processing in accordance with this decision.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Notification of International Application Number And Of The International Filing Date (Form PCT/RO/105)

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

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

29 FEB 2008

ROBERT A. GOETZ
CASIMIR JONES, S.C.
440 SCIENCE DRIVE, SUITE 203
MADISON, WI 53711

In re Application of :
THE REGENTS OF THE UNIVERSITY OF :
MICHIGAN :
PCT Application No.: PCT/US2007/019128 :
Int. Filing Date: 30 August 2007 : DECISION
Priority Date Claimed: 30 August 2006 :
Attorney Docket No.: UM-30103 :
For: NEW SMALL MOLECULE INHIBITORS :
OF MDM2 AND THE USES THEREOF :

This is in response to applicant's "Petition to Change the International Filing Receipt Date" filed 08 February 2008.

BACKGROUND

On 30 August 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 31 August 2007.

On 21 November 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 08 February 2008, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the Transmittal Letter (Form PTO-1382) and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a "date-in" of 30 August 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

28 MAR 2008

Matthew E. Hinsch
Townsend and Townsend and Crew
Two Embarcadero Center
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San Francisco, CA 94111-3834

In re Application of	:	
D-HELIX	:	
PCT No.: PCT/US07/19178	:	DECISION ON
Int. Filing Date: 29 August 2007	:	PETITION UNDER
Priority Date: 31 August 2006	:	37 CFR 1.10 (c)
Attorney's Docket No.:27039-2-1PC	:	
For: DROUGHT-RESISTANT PLANTS AND METHOD FOR PRODUCING THE PLANTS	:	

This decision is in response to communication filed 04 January 2008, requesting that the international filing date of 30 August 2007, be changed to 29 August 2007, for the above identified application. This request is being treated as a petition under 37 CFR 1.10 (c), and no petition fee is due.

BACKGROUND

This petition is to correct the international filing date of the above international application that was purported to have been filed on 29 August 2007. The United States Receiving Office (RO/US) on 07 November 2007, mailed applicant a "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating the international filing date as 30 August 2007.

On 04 January 2008, the present petition was filed requesting that the application be accorded a filing date of 29 August 2007, pursuant to the "Express Mail" provisions under 37 CFR 1.10 (c). The petition includes, *inter alia*, a copy of the customer receipt of Express Mail Label No. EV 885239515 US, postmarked 29 August 2007, a copy of an itemized returned postcard receipt bearing Express Mail Label No. EV 885239515 US, stamped 30 August 2007, by the United States Patent and Trademark Office, and a copy of Form PCT/RO/105 (NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE) mailed 07 November 2007, indicating an international filing date of 30 August 2007.

DISCUSSION

37 CFR 1.10 (c) provides:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10 (c)(1). In addition, a review of the application papers reveals that Express Mail Label No. EV 885239515 US was placed, *inter alia*, on the transmittal letter accompanying the application, and the itemized return postcard submitted at the time of filing. CFR 1.10(c)(2). Finally, the copy of the customer receipt of Express Mail Label No. EV 885239515 US filed with the present petition identifies the date of deposit in the "date-in" box as "29 August 2007." 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10 (c) is **GRANTED**. Form PCT/RO/105, mailed 07 November 2007, is hereby **VACATED**.

This decision and a new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the present application an international filing date of **29 August 2007**, will be forwarded to the International Bureau.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Wanda G. Banks
Paralegal Specialist
PCT Legal Office
(571) 272-3277

WGB/BM/wgb

cc: WIPO

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 Morgan
3624 Alcantara Avenue
Doral, FL 33178

In re Application of: Morgan et al
PCT Application No.: PCT/US2007/019382
International Filing Date: 06 September 2007
Priority Date: 24 August 2006
Attorney Docket No.: ARMPOCKET
For: THE ARMPOCKET

DECISION ON PETITION
UNDER
37 CFR 1.182

This decision is responsive to the "Request to Restore the Right of Priority" indicated on the Request filed 06 September 2007 (06.09.2007), which has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 06 September 2007 (06.09.2007), international application papers were filed, wherein Box VI item (1) of the Request indicated priority claim to earlier U.S. application 11/509122, filed 24 August 2006 (24.08.2006). On the request, the earlier application was indicated in the "Restore the right of priority" area of Box No. VI. On the annex to the request, the Remarks requested processing without the claim for priority if the applicant did not qualify for the priority claim. No further information was provided to support the request to restore the right of priority.

DISCUSSION

In accordance with the United States Patent and Trademark Office Interim Procedures for Implementing the April 1, 2007 Changes to the Regulations under the Patent Cooperation Treaty and Status of Proposed Fee Changes, a request to restore the right of priority must be filed within two months from the date of expiration of the priority period as defined in PCT Rule 2.4, and must be accompanied by: (i) the petition fee; (ii) a notice under PCT Rule 26*bis*.1(a) adding the priority claim, if the priority claim in respect of the earlier application is not contained in the international application; and (iii) a statement that the delay in filing the international application within the period was unintentional. As mentioned in the Notes to Box No. VI, it is not enough to simply request restoration, further information must be provided to support a request to restore the right of priority. In the present application no further information was provided to support the request to restore the right of priority.

The priority period expired Friday, 24 August 2007 (08.24.2007). The present petition requesting restoration of the right of priority was filed on 06 September 2007 (06.09.2007), within two months from the date of expiration of the priority period.

Regarding item (i) the petition included the $400.00 petition fee. Regarding item (ii), the priority claim was contained in the international application on the Request at Box VI item (1). Regarding item (iii), the petition lacks a statement that the delay in filing the international application within the period was unintentional.

CONCLUSION

The applicant is hereby notified that this receiving Office **intends to refuse** the request for the following reasons:

- the statement of reasons for the failure to file the international application within the priority period is missing or insufficient (PCT Rule 26*bis*.3(f)); the applicant may submit, within the **time limit** applicable under PCT Rule 26*bis*.3(e)*, a sufficient statement of reasons; and

* The **time limit** applicable under PCT Rule 26*bis*.3(e) is two months from the date on which the priority period expired, provided that, where applicant makes a request for early publication under Article 21(2)(b), the time limit is the date of completion of technical preparations for international publication.

For reasons above, the petition requesting restoration of the right of priority to earlier application 11/509122 is DISMISSED without prejudice.

Any **observations** under PCT Rule 26*bis*.3(g) must be filed **within** a time limit of **TWO (2) MONTHS** from the mail date of this decision and entitled "Observations under PCT Rule 26*bis*.3(g)." Extensions of time may not be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Tamara Graysay
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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Copy to:

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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0 8 JAN 2008

Diane Dunn McKay
Matthews, Shepherd, McKay & Bruneau, P.A.
29 Thanet Road, Suite 201
Princeton, New Jersey 08540

In re Application of
PRINCETON UNIVERSITY :
PCT No.: PCT/US07/19492 :
Int. Filing Date: 06 September 2007 :
Priority Date: 05 September 2006 : DECISION ON PETITION
Attorney Docket No.: 4555-138 WO :
For: POLARIZING NUCLEI IN SOLIDS VIA :
SPIN TRANSFER FROM AN :
OPTICALLY-PUMPED ALKALI VAPOR

This decision is issued in response to the "Petition under 37 CFR 1.10" filed 27 September 2007, which has been treated under 37 CFR 1.10(c) as a petition to correct the international filing date from 06 September 2007 to 05 September 2007. No petition fee is required.

BACKGROUND

Applicant initiated this application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The application claimed priority to a prior application filed 05 September 2006. The Request was accompanied by, among other materials, a transmittal letter that identified the "Express Mail" label number as EV910882401US and the deposit date of the application as 05 September 2007.

On 27 September 2007, applicant filed the present petition.

On 20 November 2007, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) that identified the International Filing Date as 06 September 2007.

DISCUSSION

Applicant seeks relief under 37 CFR 1.10(c). A grantable petition under 37 CFR 1.10(c) requires that applicant promptly file a petition including: (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. Petitioner has satisfied items (1) and (2) above.

With regard to item (3), petitioner has not submitted a true copy of the "Express Mail" mailing label (customer receipt) bearing the same "Express Mail" mailing number as identified in the certificate under 37 CFR 1.10 that accompanied the application papers showing that the original papers were, in fact, deposited as "Express Mail" with the United States Postal Service on 05 September 2007. Petitioner contends that the USPS Pickup Service Statement is suitable "other official USPS notation." However, the USPS Pickup Service Statement receipt merely shows that two (2) Express Mail packages were presented to the USPS employee on 05 September 2007. The USPS Pickup Service Statement does not include an Express Mail number for the two (2) indicated Express Mail packages. Therefore, the receipt (USPS Pickup Service Statement) fails to include evidence which ties it to the "Express Mail" package.

It is noted, the USPS "Express Mail" tracking database indicates that "Express Mail" (EV910882401US) envelope was accepted by the USPS on 06 September 2007, therefore, petitioner's avenue for relief is under 37 CFR 1.10(d) to correct any purported error.

CONCLUSION

Applicant's petition under 1.10(c) requesting that the international application be accorded an international filing date of 05 September 2007 is **DISMISSED** without prejudice. The international filing date remains 06 September 2007.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
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21 OCT 2008

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

Diane Dunn McKay
Matthews, Shepherd, McKay & Bruneau, P.A.
29 Thanet Road, Suite 201
Princeton, New Jersey 08540

In re Application of
PRINCETON UNIVERSITY
PCT No.: PCT/US07/19492
Int. Filing Date: 05 September 2007
Priority Date: 05 September 2006
Attorney Docket No.: 4555-138 WO
For: POLARIZING NUCLEI IN SOLIDS VIA SPIN TRANSFER FROM AN OPTICALLY-PUMPED ALKALI VAPOR

DECISION ON PETITION

This decision is issued in response to the "Renewed Petition under 37 CFR 1.10" filed 10 March 2008. Additionally, this decision is in response to applicant's "Supplemental Response to Renewed Petition under 37 CFR 1.10" filed 15 October 2007. No petition fee is required.

BACKGROUND

Applicant initiated this application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The application claimed priority to a prior application filed 05 September 2006. The Request was accompanied by, among other materials, a transmittal letter that identified the "Express Mail" label number as EV910882401US and the deposit date of the application as 05 September 2007.

On 27 September 2007, applicant filed a petition under 37 CFR 1.10.

On 20 November 2007, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) that identified the International Filing Date as 06 September 2007.

On 08 January 2008, applicant's petition under 37 CFR 1.10 was dismissed without prejudice.

On 10 March 2008, applicant filed the present petition under 37 CFR 1.10.

DISCUSSION

The Manual of Patent Examining Procedure §1834 states in part, "[T]he 'Express Mail' procedures set forth at 37 CFR 1.10 applies to papers filed the U.S. Patent and Trademark Office in international applications. Accordingly, papers filed with the USPTO in international applications will be accorded by the USPTO the date of deposit with the United States Postal Service as shown on the "date-in" on the "Express Mail" mailing label as the date of filing in the USPTO if the provisions of 37 CFR 1.10 are complied with." (See MPEP § 513.)

Petition under 37 CFR 1.10(c)

Applicant states the correct international filing date for the above identified application should be 05 September 2007. Applicant seeks relief under 37 CFR 1.10(c). A grantable petition under 37 CFR 1.10(c) requires, inter alia, 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." Applicant has not present 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" and USPS records indicate that the Express Mail package was accepted on 06 September 2007. No other official evidence from USPS establishing the 06 September 2007 date of deposit has been presented by the applicant. Therefore, there is no discrepancy under 37 CFR 1.10(c).

37 CFR 1.10(d) sets forth the procedures for filing a petition to accord a filing date as of the actual date of deposit with USPS, where the "date-in" or other notation is incorrectly entered by the USPS.

Petition under 37 CFR 1.10(d)

A grantable petition under 37 CFR 1.10(d) requires that applicant promptly file a petition including: (1) the petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS; (2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and (3) the petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being within one business day after deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has satisfied item (1) above as the petition is considered promptly filed. Item (2) above is satisfied since the number of the "Express Mail" mailing label "EV910882401US" was placed on the transmittal letter prior to the original mailing by "Express Mail".

With respect to item (3), applicant has provided a statement from a USPS employee that refers to a USPS processing error regarding "Express Mail" envelope EV910882401US. The statement confirms that the "Express Mail" envelope was presented to the USPS on 05 September 2007, and that a USPS error resulted in the envelope not being processed until 06 September 2007. The petition also includes a copy of applicant's "Express Mail Corporate Account Mailing Statement" which corroborates the error in processing "Express Mail" envelope EV910882401US. These materials provide an adequate showing that the present international application was deposited with the USPS as "Express Mail" on 05 September 2007. Applicant has therefore satisfied the final requirement for a grantable petition under 37 CFR 1.10(d).

CONCLUSION

The petition under 37 CFR 1.10(d) is GRANTED.

The international filing date herein is corrected to 05 September 2007, the date on which the application materials were deposited as "Express Mail" with the USPS.

The "Notification Of International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 November 2007, which identified the international filing date as 06 September 2007, is hereby VACATED.

A corrected "Notification Of International Application Number And Of The International Filing Date" (Form PT/RO/105) that identifies the international filing date as 05 September 2007 is mailed herewith.

A copy of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accord with this decision

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In re Application of	:	
Boehringer Ingelheim Vetmedica, Inc.	:	
PCT No.: PCT/US07/19667	:	DECISION ON PETITION
Int. Filing Date: 07 September 2007 (as corrected)	:	
Priority Date: 07 September 2006	:	UNDER 37 CFR 1.10(d)
Attorney Docket No.: 40002-PCT	:	
For: PCR-BASED GENOTYPING	:	

This decision is in response to the petition under 37 CFR 1.10(d) filed 04 December 2007 in the United States Patent and Trademark Office (USPTO) to accord an international filing date of 07 September 2007 to the above-identified international application. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 08 September 2007 to the above-identified international application. (See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 04 October 2007). In addition, on 15 November 2007, applicant was mailed an "Invitation to Correct Priority Claim" (Form PCT/RO/110) which also indicated an international filing date of 08 September 2007.

On 04 December 2007, applicant filed the present petition requesting that the international application be accorded a filing date of 07 September 2007.

DISCUSSION

37 CFR 1.10(a) states in part:

(1) 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.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation.

In the present case, a review of the "Express Mail" label in the application file finds that

it has a "date-in" date of 08 September 2007. Thus, the USPTO correctly accorded the application an international filing date of 08 September 2007.

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 07 September 2007. Specifically, the "Express Mail" label number ("EQ876984465US") appears on "Express Mail" certificate on the PCT International Application Transmittal Letter. In addition, applicant has included signed firsthand statements from Ms. Erin Perry detailing the depositing of the subject Express Mail parcel with Mr. William Rice of the USPS, as well as, a copy of the mail log created after deposit but within one business day, which shows a deposit date of 07 September 2007 with Ms. Perry's initials. Lastly, applicant has included a signed declaration from Mr. Rice confirming his receipt of the Express Mail mailing in question prior to midnight on 07 September 2007. Mr. Perry declares that he postmarked the parcel with a 07 September 2007 date, but did not enter an information into the "Date-In" portion of the mailing label. As such, it is proper to grant applicant's petition at this time.

Applicant's evidence is being accepted that the international application was deposited in

the "Express Mail Post Office to Addressee" service of the USPS on 07 September 2007.

CONCLUSION

For the reasons discussed above, applicant's request that the office accord an international filing date of 07 September 2007 to the international application is **GRANTED**.

The "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 04 October 2007 and "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 15 November 2007 are hereby **VACATED**.

The application is being returned to the US Receiving Office to processing in accordance with this decision, that is, for: (1) according the international application a date of receipt of 07 September 2007 and (2) forwarding notice of the 07 September 2007 international filing date to the International Bureau. An annotated copy of page one of the PCT Request indicating an international filing date of 07 September 2007 accompanies this decision.

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CC: International Bureau of WIPO
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Switzerland

Encl: Form RO/105 and Page one of PCT Request

UNITED STATES PATENT AND TRADEMARK OFFICE

0 1 OCT 2008

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Najib Babul
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Blue Bell, PA 19422-3212

In re Application of	:	
THERAQUEST BIOSCIENCES, INC.	:	
PCT No.: PCT/US07/19745	:	DECISION UNDER
Int. Filing Date: 11 September 2007	:	37 CFR 1.10(c)
Priority Date: 11 September 2006	:	
Agent's File Reference: 079.11.SECUR	:	
For: MULTIMODAL ABUSE RESISTANT AND EXTENDED RELEASE FORMULATIONS	:	

This decision is in response to applicants' 27 June 2008 petition under 37 CFR 1.10(c) which requests that the filing date of International Application No. PCT/US07/19745 be corrected from 12 September 2007 to 11 September 2007. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 19 October 2007), International Application No. PCT/US07/19745 was accorded a filing date of 12 September 2007 by the United States Receiving Office (RO/US).

On 27 June 2008, the present petition was filed requesting that International Application No. PCT/US07/19745 be accorded a filing date of 11 September 2007 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded,

or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the original application papers reveals that "Express Mail" Label No. EO938312838US was placed on the transmittal letter which accompanied the original application papers. The copy of the Customer Copy of "Express Mail" Label No. EO938312838US filed with the present petition indicates 11 September 2007 as the "Date-In". Furthermore, the "Track & Confirm" database of the USPS indicates that the date of deposit for the present international application is 11 September 2007. Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED.** The Form PCT/RO/105 mailed 19 October 2007 is hereby **VACATED.**

A corrected Form PCT/RO/105 indicating an 11 September 2007 international filing date accompanies this decision. A copy of this decision and a copy of the corrected first sheet of the PCT Request will be sent to the International Bureau.

Leonard Smith
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Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
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Enclosures: corrected Form PCT/RO/105 and corrected 1st page of PCT Request.

Copy to:
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13 FEB 2008

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In re Application of EGRET ENDEAVORS, INC. :
PCT Application No.: PCT/US2007/020178 :
Int. Filing Date: 17 September 2007 : DECISION
Priority Date Claimed: 24 October 2006 :
Attorney Docket No.: PA4396PCT :
For: COLLABORATIVE FILTERING BASED :
ON ATTRIBUTE PROFILING :

This is in response to applicant's "Request for Corrected Notification" filed 16 January 2008, which is being treated as a petition under 37 CFR 1.10(c). No petition fee is due.

BACKGROUND

On 17 September 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 18 September 2007.

On 08 November 2007, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 16 January 2008, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the Transmittal Letter (Form PTO-1382) and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a "date-in" of 17 September 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

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PCT Legal Office

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ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

29 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dale R. Cook
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In re Application of	:	
SEARETE LLC	:	
PCT No.: PCT/US07/20305	:	DECISION UNDER
Int. Filing Date: 18 September 2007	:	37 CFR 1.10(c)
Priority Date: 18 September 2006	:	
Agent's File Reference: 110502044WO1	:	
For: SYSTEMS AND METHODS FOR PATHOGEN DETECTION AND RESPONSE	:	

This decision is in response to applicants' 19 October 2007 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US07/20305 be corrected from 19 September 2007 to 18 September 2007. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 13 December 2007), International Application No. PCT/US07/20305 was accorded a filing date of 18 September 2007 by the United States Receiving Office (RO/US). However, it is noted that the RO/US stamped the PCT Request with a 19 September 2007 filing date.

On 19 October 2007, the present petition was filed requesting that International Application No. PCT/US07/20305 be accorded a filing date of 18 September 2007 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in"

on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The Express Mail mailing label shows a "Date-In" of 18 September 2007, which is in accord with the international filing date indicated on the Form PCT/RO/105 mailed 13 December 2007. Therefore, the PCT Request (Form PCT/RO/101) was stamped with an incorrect date.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED.** The Form PCT/RO/105 mailed 13 December 2007 remains of record.

A copy of this decision and a copy of the corrected first sheet of the PCT Request indicating an 18 September 2007 international filing date will be sent to the International Bureau.

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11 DEC 2007

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In re Application of:
PACKETVIDEO CORP.
PCT No.: PCT/US2007/020574
International Filing Date: 24 September 2007
Priority Date Claimed: 10 August 2006
Atty Docket No.: PVC-P-07-008: PCT
For: SYSTEM AND METHOD FOR INTELLIGENT MEDIA RECORDING AND PLAYBACK ON A MOBILE DEVICE

DECISION

This decision is response to applicant's "STATEMENT FOR RESTORATION OF THE RIGHT OF PRIORITY" filed in the United States Patent and Trademark Office (USPTO) on 24 September 2007, treated herein under 37 CFR 1.182. Applicant has paid the required $400.00 petition fee.

BACKGROUND

On 24 September 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by, among other materials, the "STATEMENT FOR RESTORATION OF THE RIGHT OF PRIORITY" considered herein.

DISCUSSION

The interim procedures for the restoration of priority claim are detailed on the USPTO website. Consistent with these interim procedures, the present submission includes the required $400.00 petition fee and a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (U.S. application number 60/836,828, filed 10 August 2006) was listed in Box VI(1) of the PCT Request (Form PCT/RO/101) filed 24 September 2007. All these materials were submitted within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. As such, it is appropriate to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition for restoration of the priority claim under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

A copy of this decision will be forwarded to the International Bureau.

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PCT/US2007/020864 06.12.2007
RECEIVED 06 DEC 2007

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06 DEC 2007

HSI, Jeffrey D.
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In re Application of:	:	
SYNTA PHARMACEUTICALS CORP.	:	DECISION ON PETITION UNDER
PCT Application No.: PCT/US2007/020864	:	37 CFR 1.10(c)
Receipt Date: 26 September 2007	:	
Priority Date: 26 September 2006	:	
Atty Docket No.: 69231WO (50586)	:	
For: FUSED RING COMPOUNDS FOR INFLAMMATION AND IMMUNE-RELATED USES	:	

This decision is issued in response to the "Petition To Grant Filing Date Under 37 C.F.R. 1.10(c)" filed 14 November 2007. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a Transmittal Letter that itemized the contents of the application, identified the "Express Mail" label number as EM053195365US, and listed the date of deposit as 26 September 2007.

The acknowledgement postcard submitted with the application materials was subsequently returned to applicant with a USPTO receipt stamp dated 27 September 2007.

On 14 November 2007, applicants filed the present petition. The petition asserts that the proper filing date for the application materials is 26 September 2007 and it is accompanied by, among other materials, a copy of the customer receipt for "Express Mail" label number EM053195365US. This receipt bears a "date-in" of 26 September 2007, as well as a separate USPS stamp dated 26 September 2007.

DISCUSSION

Applicant asserts that the proper international filing date for the international application materials is 26 September 2007, the date on which the "Express Mail" envelope containing the application materials was deposited with the USPS. As noted above, a Transmittal Letter that identified the "Express Mail" label number and deposit date accompanied the original application papers, and a copy of the customer receipt for this "Express Mail" label number is included with the present petition. The receipt bears a "date-in" of 26 September 2007, as well as a separate USPS stamp dated 26 September 2007.

Based on applicant's statements, the Transmittal Letter included with the original application papers (which listed the "Express Mail" label number), and the 26 September 2007 "date- in" and date stamp entered by the USPS on the "Express Mail" customer receipt, it is concluded that the present application materials were deposited as "Express Mail" with the USPS on 26 September 2007. Accordingly, pursuant to 37 CFR 1.10(c), the appropriate filing date for these materials is 26 September 2007.

It is noted that the present application is still undergoing preliminary review and an international filing date has not been assigned. However, when such date is accorded, the materials included in "Express Mail" envelope EM053195365US will be treated as having been filed on 26 September 2007.

CONCLUSION

The petition is **GRANTED** to the extent that the Request (Form PCT/RO/101), description, claims, and abstract included in "Express Mail" envelope EM053195365US will be treated as having been filed on 26 September 2007.

An international filing date has not yet been accorded to the present application materials.

The application is being referred to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

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07 JAN 2008

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GATES ELLIS LLP
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Boston, MA 02111-2950

In re Application of :
NMT MEDICAL, INC. :
PCT No.: PCT/US07/20865 : DECISION UNDER
Int. Filing Date: 26 September 2007 : 37 CFR 1.10(c)
Priority Date: 26 September 2006 :
Agent's File Reference: NMT-044PC :
For: METHOD FOR MODIFYING MEDICAL :
IMPLANT SURFACE FOR PROMOTING TISSUE
GROWTH

This decision is in response to applicants' 19 November 2007 communication, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US07/20865 be corrected from 27 September 2007 to 26 September 2007. No petition fee is due. The petition is **GRANTED** as follows:

BACKGROUND

As indicated in the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105 mailed 31 October 2007), International Application No. PCT/US07/20865 was accorded a filing date of 27 September 2007 by the United States Receiving Office (RO/US).

On 19 November 2007, the present petition was filed requesting that International Application No. PCT/US07/20865 be accorded a filing date of 26 September 2007 pursuant to the "Express Mail" provisions under 37 CFR 1.10.

DISCUSSION

37 CFR 1.10(c) provides that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation,

may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition has been filed promptly. 37 CFR 1.10(c)(1). "Express Mail" Label No. EM082258981US was indicated on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(c)(2). The copy of "Express Mail" Label No. EM082258981US filed with the present petition indicates that the "Date In" is 26 September 2007. 37 CFR 1.10(c)(3). Additionally, the "Track & Confirm" database of the USPS indicates that the date of deposit is 26 September 2007. Accordingly, correction of the international filing date to 26 September 2007 is appropriate.

CONCLUSION

For the above reasons, the request to correct the filing date is **GRANTED**. The Form PCT/RO/105 mailed 31 October 2007 is hereby **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 and first page of the PCT Request indicating a 26 September 2007 international filing date are being sent to the International Bureau.

Richard Cole
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Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
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Copy to:
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SUISSE

Enclosures: a copy of corrected Form PCT/RO/105 and a copy of the corrected copy of first page of the PCT Request.

UNITED STATES PATENT AND TRADEMARK OFFICE

01 APR 2009

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Barry R. Lipsitz
Lipsitz & McAllister, LLC
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In re Application of:
ACUPAY SYSTEM LLC et al.
PCT Application No.: PCT/US2007/021312
Int. Filing Date: 03 October 2007
Priority Date: 01 December 2006
Atty Docket No.: ACP-101 PCT
For: DOCUMENT PROCESSSING SYSTEMS AND METHODS FOR REGULATORY CERTIFICATIONS

DECISION

This is in response to applicant's "Payment of Additional Fees Under Protest (Rule 40.2 (c))" received on 12 March 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 03 October 2007, applicant filed international application papers with the USPTO. Applicant elected the United States as the International Searching Authority.

On 20 February 2008, applicant was mailed an "Invitation to Pay Additional Fees And, Where Applicable, Protest Fee" (Form PCT/ISA/206) informing applicant that the subject application contained three inventions and inviting applicant to provide payment of an additional international search fee of $2000.00 in order to have all three inventions searched.

On 12 March 2008, applicant filed the present petition with the payment of $2000 but requesting a refund of $1400.

DISCUSSION

PCT Rule 40.2 states that "The amount of the additional fees due for searching under Article 17(2)(a) shall be determined by the competent International Searching Authority." For applications filed on and after 01 April 2004 and before November 9 2007, ISA/US charges $1000 per additional invention. There is no provision for a reduced fee even if the international application has a corresponding U.S. national application filed 35 U.S.C. 111(a). The reduced fee requested by applicant only applied to search fee under PCT Rule 16 and for the first main invention. Accordingly, the fee indicated in the Invitation to Pay Additional Fees And, Where Applicable, Protest Fee" (Form PCT/ISA/206) is proper.

CONCLUSION

For the reason stated above, applicant's request is **DISMISSED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

18 AUG 2008

United States Patent and Trademark Office

Commissioner for Patents
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FRANK T. BRZOZOWSKI
2357 EAST DAUPHIN STREET
PHILADELPHIA PA 19125-2923

In re Application of	:	
Brzozowski	:	
PCT No.: PCT/US07/21531	:	
Int. Filing Date: 01 October 2007	:	DECISION
Priority Date: 28 February 2007	:	
Attorney's Docket No.: N/A	:	
For: Chum Chucker, A Chum Distributing Device	:	

This application is before the office of PCT Legal Administration for determination of the proper international filing date.

BACKGROUND

Applicants filed this international application with the United States receiving Office on 01 October 2007.

On 16 January 2008, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 01 October 2007 was mailed to applicant.

On 15 February 2008, a second Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of "28 FEB 2007" was mailed to applicant.

On 21 February 2008, the International Bureau of WIPO ("IB") mailed a Communication In Cases For Which No Other Form Is Applicable (Form PCT/IB/345) stating in part that "the receiving Office has notified the International Bureau that the international filing date for the above-identified international application should read 28 February 2007 (28.02.2007) instead of: 01 October 2007 (01.10.2007)."

DISCUSSION

Review of the international application file reveals that, on 01 October 2007, applicant first filed correspondence into the instant application file. The correspondence filed on 01 October 2007 included *inter alia* a Description, Claims, Drawings, Abstract and a PCT Request (Form PCT/RO/101). It is noted that applicant had earlier filed certain correspondence in earlier U.S. application files 11/712,662 and 11/803,491. However, as said correspondence was not included in the instant PCT filing, but was instead directed to other application files, it does not satisfy any of the requirements for the according of an international filing date in this international application. PCT Article 11(1) provides that

The receiving Office shall accord as the international filing date the date of receipt of the international application, provided that Office has found that, at the time of receipt:

(i) the applicant does not obviously lack, for reasons of residence or nationality, the right to file an international application with the receiving Office,

(ii) the international application is in the prescribed language,

(iii) the international application contains at least the following elements:

(a) an indication that it is intended as an international application,

(b) the designation of at least one Contracting State,

(c) the name of the applicant, as prescribed,

(d) a part which on the face of it appears to be a description,

(e) a part which on the face of it appears to be a claim or claims.

Pursuant to PCT Article 11, the instant international application should be accorded an international filing date of 01 October 2007, as shown on the Form PCT/RO/105 mailed on 16 January 2008. The second Form PCT/RO/105, mailed on 15 February 2008, was issued in error, and it is hereby **VACATED**.

DECISION

This international application has an international filing date of **01 October 2007**, for the reasons described *supra*.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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cc: International Bureau of WIPO

enc.: Corrected PCT Request (Form PCT/RO/101), first sheet

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 07/21531

International Filing Date - 1 OCT 2008

PCT INTERNATIONAL APPLICATION RO/US

U.S.P.T.O.

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)*

Box No. I TITLE OF INVENTION

Chum Chucker, a chum distributing device

Box No. II APPLICANT [x] This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

Frank T. Brzozowski
2357 East Dauphin Street
Philadelphia, PA 19125-2923
US

Telephone No. 215-425-7672

Facsimile No.

Teleprinter No.

Applicant's registration No. with the Office: Customer no. 60924

State *(that is, country)* of nationality: USA

State *(that is, country)* of residence: USA

This person is applicant for the purposes of: [x] all designated States [ ] all designated States except the United States of America [ ] the United States of America only [ ] the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

This person is:
[ ] applicant only
[ ] applicant and inventor
[ ] inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality:

State *(that is, country)* of residence:

This person is applicant for the purposes of: [ ] all designated States [ ] all designated States except the United States of America [ ] the United States of America only [ ] the States indicated in the Supplemental Box

[ ] Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: [ ] agent [ ] common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

Telephone No.

Facsimile No.

Teleprinter No.

Agent's registration No. with the Office

[ ] Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

18 AUG 2008

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FRANK T. BRZOZOWSKI
2357 EAST DAUPHIN STREET
PHILADELPHIA PA 19125-2923

In re Application of :
Brzozowski :
PCT No.: PCT/US07/21531 :
Int. Filing Date: 01 October 2007 : DECISION
Priority Date: 28 February 2007 :
Attorney's Docket No.: N/A :
For: Chum Chucker, A Chum Distributing Device :

This is in response to the refund request filed on 05 May 2008, which made reference to applications PCT/US2007/021531, 11/712,662 and 11/918,096. Since applicant requests refund of a fee whose payment was associated with PCT/US2004/021531, the request is being treated in this case.

BACKGROUND

Applicants filed this international application with the United States receiving Office on 01 October 2007.

On 16 January 2008, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 01 October 2007 was mailed to applicant.

On 01 October 2007, applicants filed *inter alia* a Transmittal Letter (Form PTO-1390), which was placed in application 11/918,096. Also filed therewith was a petition.

On 03 March 2008, a Decision was mailed in 11/918,096.

DISCUSSION

As a preliminary matter, applicant is advised that correspondence directed to more than one application should be prepared as separate papers directed toward, and filed in, each respective application.

It is also noted that, in the Decision mailed on 03 March 2008 in application 11/918,096, the instant application (PCT/US07/21531) was indicated (in reliance on inaccurate records) to have an international filing date of 28 February 2007, when in fact the correct international filing date was 01 October 2007 (as explained in an accompanying Communication).

Inspection of the records of the USPTO reveals that international application PCT/US2007/021531 was filed on 01 October 2007. Meanwhile, application 11/712,662 was filed on 28 February 2007. In addition, certain correspondence received on 28 February 2007 was assigned to application no. 11/803,491, with respect to which a Notification of Termination of Proceedings Under 37 CFR 1.53(e) was mailed on 14 November 2007. Also, certain correspondence filed on 01 October 2007 was assigned to application no. 11/918,096.

Petitioner states that 11/712,662 "is a viable action" which is "currently being prosecuted," and that "the PCT is conducting the search..." Petitioner further states that "Application No. 11/918,096 is an error that is not the applicant's fault. This 11/918,096 action was not intended to be prosecuted before the USPTO, but was intended to be the PCT filing which is now PCT/US07/21531. This is also a request for a refund of the $400.00 fee that was filed with the petition dated October 1, 2007."

Petitioner has not clearly articulated what relief is being sought. It appears that petitioner may believe that correspondence associated with 11/918,096 should be or should have been placed into the instant file, PCT/US2007/021531, which USPTO records show to have been filed on the same date. If this is applicant's position, it is not clear why the "error" was "not the applicant's fault." For instance, the correspondence placed in PCT/US2007/021531 included a PCT Transmittal Letter (PTO-1382) and a PCT Request (Form PCT/RO/101), both of which suggested the filing of an international application under the PCT. Meanwhile, the correspondence placed in 11/918,096 included a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371, which suggested that entry into the national stage was being sought.[1] It would have been reasonable to conclude that these forms were intended for two separate application files.

Regarding the refund request, petitioner still has not affirmatively stated what type of relief is being sought (beyond the request for a refund), nor clarified the purpose of payment of the $400.00 petition fee. In the event that petitioner is attempting to seek the placing of correspondence from one file into another by way of petition under 37 CFR 1.182, petitioner should explicitly state this, and specifically spell out the exact relief is being requested and why such relief would be appropriate. Since petitioner has not adequately explained whether or why the fee payment was made in excess or by mistake, it would not be appropriate to grant the fee refund at this time .

DECISION

The petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
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[1]Said Transmittal Letter referenced 11/712,662, which had already been filed on 28 February 2007, but not as a national stage.

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Mark Joy
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Two Prudential Plaza
Suite 4900
Chicago, Illinois 60601

In re Application of: INVENSYS SYSTEMS, INC.
PCT Application No.: PCT/US2007/022038
International Filing Date: 16 October 2007
Priority Date: 16 October 2006
Attorney Docket No.: 702136
For: CUSTOM PROPERTIES FOR AUTOMATION CONTROL

DECISION ON
REQUEST FOR REFUND
UNDER 37 CFR § 1.446

This decision is in response to applicant's communication filed 18 January 2008. Applicant's communication has been treated as a petition under 37 CFR § 1.446 for the refund of excess search fees in the amount of $700. The petition is **GRANTED**.

BACKGROUND

On 16 October 2007, applicant filed international application PCT/US2006/022038. The PCT Request indicated a priority claim of earlier U.S. provisional application 60/829,600 filed 16 October 2006 (Box No. VI-1) as well as earlier U.S. non-provisional application 11/645,868 filed 27 December 2006 (Box No. VI-2), which was identified by the application number and the filing date.

On 17 October 2007, notwithstanding the indication in Box No. VI-2 of the PCT Request, the United States Receiving Office (RO/US) charged, *inter alia*, the international search fee pursuant to 37 CFR § 1.445(a)(2)(ii) (2007) in the amount of $1,000.00 to Deposit Account No. 12-1216.

On 18 January 2008, applicant filed the present petition requesting refund for having filed a prior application under 35 U.S.C. § 111(a).

DISCUSSION

37 CFR § 1.445(a)(2)(i) (2007), reads:

> If a corresponding prior United States national application under 35 U.S.C. 111(a) has been filed on or after December 8, 2004, the basic filing fee under § 1.16(a), search fee under § 1.16(k), and examination fee under § 1.16(o) have been paid therein, and the corresponding prior United States national application is identified by application number, if known, or if the application number is not known by the filing date, title, and name of applicant (and preferably the application docket number), in the international application or accompanying papers at the time of filing the international application.....$300.00.

A review of the present application file reveals that applicant provided the application number of the corresponding prior application in support of the request to use results of earlier search from a prior U.S. National application filed under 35 U.S.C. § 111(a). Specifically, Box VI-2 of the PCT Request indicated U.S. non-provisional application 11/645,868, filed 27 December 2006, which application was filed pursuant to 35 U.S.C. § 111(a) with the requisite basic filing fee, search fee, and examination fee having been paid therein.

Pursuant to 37 CFR § 1.445(a)(2)(i), applicant should have been charged an international search fee of $300.00. However, on 17 October 2007, the RO/US charged an international search fee of $1,000.00.

CONCLUSION

For the above reasons, the request for refund of the **$700.00** overpayment is GRANTED.

A $1,000.00 credit of the 37 CFR § 1.445(a)(2)(ii) international search fee and a $300.00 charge of the 37 CFR § 1.445(a)(2)(i) international search fee have been applied to Deposit Account No. 12-1216.

Tamara Graysay
PCT Special Program Examiner
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Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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14 MAR 2008

AMY F. MENDEL
GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE
BOSTON MA MASSACHUSETTS 02110

In re Application of:
MICHAEL ROTHMAN AND ASSOCIATES
PCT Application No.: PCT/US2007/022054
International Filing Date: 15 October 2007
Priority Date: 13 October 2006
Atty Docket No.: 105583-010302/PCT
For: SYSTEM AND METHOD FOR PROVIDING A HEALTH SCORE FOR A PATIENT

DECISION ON PETITION UNDER 37 CFR 1.10(c)

This decision is issued in response to the "Response To Invitation To Correct Priority Claim Under Rule 26bis In The International Application" filed 11 December 2007, treated herein as a petition under 37 CFR 1.10(c) to correct the international filing date. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a Transmittal Letter that itemized the contents of the application, identified the "Express Mail" label number as EV42689210US, and listed the date of deposit as 15 October 2007.

On 29 November 2007, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 16 October 2007 and an "Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) indicating that applicant's priority claim was defective for failure to fall within twelve months of the international filing date.

On 11 December 2007, applicant filed the submission considered as a petition herein. The petition asserts that the proper international filing date here is 15 October 2007, a date within twelve months of the 13 October 2006 filing date of the earliest priority application.[1] The submission includes, among other materials, a copy of the customer receipt for "Express Mail" label number EV42689210US. This receipt bears a "date-in" of 15 October 2007, as well as a separate USPS stamp dated 15 October 2007.

[1] It is noted that 13-14 October 2007 was a weekend.

DISCUSSION

Applicant asserts that the proper international filing date is 15 October 2007, the date on which the "Express Mail" envelope containing the application materials was deposited with the USPS. As noted above, a Transmittal Letter that identified the "Express Mail" label number and deposit date accompanied the original application papers, and a copy of the customer receipt for this "Express Mail" label number is included with the present petition. The receipt bears a "date-in" of 15 October 2007, as well as a separate USPS stamp dated 15 October 2007.

Based on applicant's statements, the Transmittal Letter included with the original application papers (which listed the "Express Mail" label number), and the 15 October 2007 "date- in" and date stamp entered by the USPS on the "Express Mail" customer receipt, it is concluded that the present application was deposited as "Express Mail" with the USPS on 15 October 2007. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 15 October 2007.

CONCLUSION

The petition for correction of the international filing date is **GRANTED**. The international filing date is corrected to **15 October 2007**.

The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 29 November 2007, which identified 16 October 2007 as the international filing date, is hereby **VACATED**.

The "Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" (PCT/RO/110) mailed 29 November 2007, which indicated that the 13 October 2006 priority application was not filed within twelve months of the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which identifies the international filing date as **15 October 2007** is issued herewith.

Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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Facsimile: (571) 273-0459

cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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05 MAY 2008

Bret E. Field
Bozicevic, Field & Francis, LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of	:	
PROTEUS BIOMEDICAL, INC.	:	DECISION ON PETITION
PCT No.: PCT/US07/22257	:	
Int. Filing Date: 17 October 2007 (as corrected)	:	UNDER 37 CFR 1.10(c)
Priority Date: 17 October 2006	:	
Atty. Docket No.: PRTS-065WO	:	
For: LOW VOLTAGE OSCILLATOR FOR MEDICAL DEVICES	:	

This decision is in response to applicant's "Request For Corrected Filing Date" filed 05 December 2007 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10 (c). No petition fee is required.

BACKGROUND

On 17 October 2007, applicant filed a PCT Request with the United States Receiving Office (RO/US) through use of Express Mail from the United States Postal Service. The Request claimed priority to an application filed in the United States on 17 October 2006.

On 19 November 2007, applicant was mailed a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating that the international filing date was 18 October 2007.

On 05 December 2007, applicant filed the present petition seeking an international filing date of 17 October 2007.

DISCUSSION

37 CFR 1.10(c) states that an applicant filing correspondence under 37 CFR 1.10 which is received by the USPTO who can show that there is a discrepancy between the "Date-in" date on the Express Mail label and the date accorded by the USPTO may petition the Director to accord a filing date as of the "Date-in" on the mailing label 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 (United States Postal Service) 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.

Applicant has satisfied all three items above and it is therefore proper to grant applicant's petition.

CONCLUSION

Applicant's petition under 37 CFR 1.10 to accord the present international application an international filing date of **17 October 2007** is **GRANTED**.

The "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) mailed 19 November 2007 is hereby **VACATED**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing of the international application.

A corrected copy of page one of the PCT Request form and new "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating that the international filing date is **17 October 2007** accompanies this decision.

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cc:

International Bureau
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CH-1211 Geneva 20, Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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29 APR 2008

KARL BOZICEVIC
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA CALIFORNIA 94303

In re Application of:
ARADIGM CORPORATION
PCT Application No.: PCT/US2007/022424
International Filing Date: 23 October 2007
Priority Date: 24 October 2006
Atty Docket No.: AERX-126WO
For: DUAL ACTION, INHALED FORMULATIONS PROVIDING BOTH AN IMMEDIATE AND SUSTAINED RELEASE PROFILE

DECISION ON PETITION

This decision is issued in response to the "Petition For Filing Date Correction" filed 09 April 2008, treated herein under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The submission included a Transmittal Letter that identified the "Express Mail" label number as EV640630496US and identified the date of deposit as 22 October 2007.

On 10 March 2008, the United States Receiving Office (RO/US) mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 23 October 2007.

On 09 April 2008, applicant filed the submission considered as a petition herein. The petition asserts that the proper international filing date here is 22 October 2007.

DISCUSSION

As indicated above, the RO/US has accorded the present application an international filing date of 23 October 2007. In the present petition, applicant asserts that the proper international filing date is 22 October 2007, the date on which the "Express Mail" envelope containing the application materials was purportedly deposited with the USPS. Where there is a discrepancy between the filing date applied to correspondence and the date of deposit as "Express Mail" with the USPS, the applicable regulation is 37 CFR 1.10(c), which reads as follows:

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The present petition was promptly filed, and a Transmittal Letter that identified the "Express Mail" label number as EV640630496US accompanied the original application papers. Items (1) and (2) above are therefore satisfied.

However, applicant has not satisfied item (3). Specifically, applicant has not included a "true copy of the 'Express Mail' mailing label showing the 'date-in.'" While the petition does include a copy of an "Express Mail" mailing label, the mailing label number on this label is EV640631284US. This number does not correspond to the "Express Mail" number listed on the Transmittal Letter included with the original application papers (EV640630496US). It is noted that the "date in" on the "Express Mail" mailing label provided is 23 October 2007, not 22 October 2007.

Applicant has included with the present petition USPS tracking data for the correct "Express Mail" label number, and this tracking data indicates acceptance of the "Expres Mail" envelope by the USPS on 22 October 2007. However, before it can be concluded that the applicable "date in" here is 22 October 2007, applicant must provide a copy of the correct "Express Mail" mailing label, as required by 37 CFR 1.10(c)(3). Until such mailing label is provided, item (3) remains unsatisfied.

Based on the above, applicant has not satisfied all the requirements for a grantable petition under 37 CFR 1.10(c). Correction of the international filing date is therefore not appropriate on the present record.

CONCLUSION

The petition for correction of the international filing date under 37 CFR 1.10(c) is **DISMISSED** without prejudice.

The international filing date remains **23 October 2007**.

If reconsideration on the merits is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include the additional materials required to satisfy 37 CFR 1.10(c), that is, a true copy of the "Express Mail" mailing label for "Express Mail" label number EV640630496US bearing a "date in" of 22 October 2007.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
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13 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael M. Ahmadshahi
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In re Application of: BIOMETRIC LINGERIE, INC.
PCT No.: PCT/US07/22432
International Filing Date: 22 October 2007
Priority Date: 20 October 2006
Attorney's Docket No.: 1001062MMA
For: BIOMETRIC GARMENT AND METHOD OF OPERATION

DECISION ON REFUND REQUEST

This decision is issued in response to applicant's "Petition for Refund under 37 CFR 1.446(A)" filed 21 December 2007 which requested a refund of $700 in the above-captioned application. No petition fee is required.

BACKGROUND

On 22 October 2007, applicant filed the present application with a $1,706 fee payment and an authorization to charge Deposit Account No. 50-2818 for any additional fees required. Applicant itemized the fees as follows: $300 transmittal fee; $300 search fee; $1086 international fee; and $20 fee for priority document.

On 21 December 2007, applicant filed the "Petition for Refund under 37 CFR 1.446(A)" considered herein. The refund request notes that the original application papers properly identified a prior-filed U.S. non-provisional application and that the appropriate search fee is therefore $300. Applicant requests a refund of the extra $700 charged to the Deposit Account for the search fee.

On 12 March 2008, the United States Receiving Office (RO/US) mailed a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) indicating that applicant had been charged the required fees, including $1,000 as the applicable search fee.

DISCUSSION

Under 37 CFR 1.445(a)(2)(i), the search fee is $300 in the following situation:

> If a corresponding prior United States National application filed under 35 U.S.C. 111(a) with the filing fee under § 1.16(a) has been filed and the corresponding prior United States

> National application is identified by application number, if known, or if the application number is not known by the filing date, title and name of applicant (and preferably the application docket number) in the international application or accompanying papers at the time of filing the international application.

In all other circumstances, the search fee is $1,000 (see 37 CFR 1.445(a)(2)(ii)).

The present application does not fall within the exception set forth in 37 CFR 1.445(a)(2)(i). The application papers refer to two prior U.S. applications. One of these applications, application number 60/853,210, is a provisional application and therefore was not filed under 35 U.S.C. 111(a), as required. The second priority application is possibly a non-provisional application; however, the filing date for this application is identified as 22 October 2007, the same date as the international filing date herein. This contemporaneously filed second priority application is therefore not a "prior" U.S. application, as required to fall within the requirements for the discounted $300 search fee.

Based on the above, the proper search fee for this application is $1,000. Applicant's request for a refund of the additional $700 charged for the search fee is therefore dismissed.

CONCLUSION

Therefore, applicant's request for refund is **DISMISSED** without prejudice.

Any reconsideration request should include a cover letter entitled "Renewed Request for Request." Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the RO/US for further processing.

Anthony Smith
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09 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Application of :
CLO SYSTEMS, LLC :
PCT No.: PCT/US07/22532 : DECISION ON PETITION
Int. Filing Date: 23 October 2007 : UNDER 37 CFR 1.10
Priority Date: 23 October 2006 :
Attorney Docket No.: 52204-59PCT :
For: MOUNTING SYSTEM ADAPTED TO EXTEND AND RETRACT TO PIVOT A MONITOR :

This decision is issued in response to applicant's "Response to Invitation to Correct Defects in the International Application" dated 27 February 2008, applicant's "Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right Priority" dated 29 February 2008, and applicant's "Response to Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority" dated 03 March 2008 which are being treated as Petitions under 37 CFR 1.10(c) to Correct International Filing Date to accord an international filing date of 23 October 2007 to the above-identified international application.

BACKGROUND

The United States Receiving Office accorded an international filing date of 24 October 2007 to the above-identified international application.

On 27 February 2008, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #ED626718546US. The mailing label was addressed to "Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450," and shows a "Date In" of "10/23/07."

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 23 October 2007. Specifically, the "Express Mail" label number ("#ED626718546US") appears on "Express Mail" certificate on the Transmittal

Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application was deposited on 23 October 2007.

Applicant's evidence is being accepted that the international application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 23 October 2007. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 23 October 2007 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 23 October 2007; (2) issuance of a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating an international filing date of 23 October 2007; and (3) forwarding a copy of this decision to the International Bureau.

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17 DEC 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUITE 600
WASHINGTON DC 20004

In re Application of:
REINER, Bruce
PCT No.: PCT/US2007/022564
International Filing Date: 25 October 2007
Priority Date: 25 October 2006
Atty Docket No.: 71486.0050
For: METHOD AND APPARATUS OF PROVIDING A RADIATION SCORECARD

DECISION

This decision is issued in response to the "Request For Rectification Under Rule 91.1 In Response To Notification Relating To Priority Claim" filed 03 October 2008. No petition fee is required.

BACKGROUND

On 25 October 2007, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. The Request listed two priority claims. The second priority claim identified the priority date as 23 October 2007, but did not include an application number (applicant indicated that the application number was "Not yet assigned").

On 06 February 2008, the United States Receiving Office (RO/US) mailed a "Communication In Cases For Which No Other Form Is Applicable" (Form PCT/RO/132) informing applicant that the application was undergoing a national security clearance review.

On 11 August 2008, the RO/US mailed, among other materials, an "Invitation To Correct Priority Claim" (Form PCT/RO/110) indicating that the second priority claim was defective for failure to include an application number.

On 14 August 2008, applicant filed a "Response to The Invitation to Correct Priority Claim" that for the first time provided the application number for the second priority claim, U.S. application number 60/960,971.

On 30 September 2008, the International Bureau (IB) mailed a "Notification Relating To Priority Claim" (Form PCT/IB/318) indicating that applicant's defective second priority claim could not be corrected pursuant to applicant's 14 August 2008 submission because such submission was filed after the expiration of the prescribed time period under PCT Rule

26bis.1(a). The Notification indicated that the defective priority claim would not, however, be considered void.

On 01 October 2008, the RO/US mailed a "Notification Relating To Priority Claim" (Form PCT/RO/111) also indicating that the defective priority claim could not be corrected because the required application number was not timely provided.

On 03 October 2008, applicant filed the "Request For Rectification Under Rule 91.1 In Response To Notification Relating To Priority Claim" petition considered herein.

DISCUSSION

The record is clear that applicant did not provide the required application number for the second priority claim until 14 August 2008, well after the expiration of the 16-month deadline for such corrections set forth in PCT Rule 26bis.1(a). Thus, as indicated in the Form PCT/IB/318 mailed 30 September 2008 and the Form PCT/RO/111 mailed 03 October 2008, applicant's 14 August 2008 request to correct the second priority claim so as to add the required application number was untimely. The request was therefore not grantable pursuant to PCT Rule 26bis.1(a).

As an alternative to PCT Rule 26bis, the present submission requests that the missing application number be added to the defective priority claim as a rectification of obvious error under PCT Rule 91.1. However, as set forth in PCT Rule 91.1(c), rectification is only appropriate "if, and only if, it is obvious to the competent authority that, as at the applicable date under paragraph (f), something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification." The purported obvious error herein was contained in the international application as filed; thus, pursuant to PCT Rule 91.1(f), the "applicable date" for consideration is the international filing date. Based on the above, rectification is only appropriate here if, as of the international filing date, it was apparent that "something else was intended" when applicant stated that the priority application number was "Not yet assigned," and that "nothing else could have been intended" as the second priority claim's application number other than application number 60/960,971. However, in the present case, it is not apparent that "something else was intended" by applicant's statement in the PCT Request that the application number for the second priority claim was "Not yet assigned." Rather, this appears to be a correct statement of the circumstances as of the international filing date. In addition, it is not true that at the time the application was filed "nothing else could have been intended" as the application number for the second priority claim other than application number 60/960,971, a number which had not yet been assigned by the USPTO when the international application was filed. Accordingly, applicant's request for rectification of the defective priority claim pursuant to PCT Rule 91.1 is appropriately dismissed.

It is noted that, pursuant to PCT Rule 26bis.2(c)(i), the defective priority claim, while remaining defective, is not considered void.

17 DEC 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

JEAN C. EDWARDS
AKERMAN SENTERFITT
801 PENNSYLVANIA AVE., NW
SUITE 600
WASHINGTON DC 20004

In re Application of:
REINER, Bruce
PCT No.: PCT/US2007/022564
International Filing Date: 25 October 2007
Priority Date: 25 October 2006
Atty Docket No.: 71486.0050
For: METHOD AND APPARATUS OF PROVIDING A RADIATION SCORECARD

DECISION

This decision is issued in response to the "Request For Rectification Under Rule 91.1 In Response To Notification Relating To Priority Claim" filed 03 October 2008. No petition fee is required.

BACKGROUND

On 25 October 2007, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. The Request listed two priority claims. The second priority claim identified the priority date as 23 October 2007, but did not include an application number (applicant indicated that the application number was "Not yet assigned").

On 06 February 2008, the United States Receiving Office (RO/US) mailed a "Communication In Cases For Which No Other Form Is Applicable" (Form PCT/RO/132) informing applicant that the application was undergoing a national security clearance review.

On 11 August 2008, the RO/US mailed, among other materials, an "Invitation To Correct Priority Claim" (Form PCT/RO/110) indicating that the second priority claim was defective for failure to include an application number.

On 14 August 2008, applicant filed a "Response to The Invitation to Correct Priority Claim" that for the first time provided the application number for the second priority claim, U.S. application number 60/960,971.

On 30 September 2008, the International Bureau (IB) mailed a "Notification Relating To Priority Claim" (Form PCT/IB/318) indicating that applicant's defective second priority claim could not be corrected pursuant to applicant's 14 August 2008 submission because such submission was filed after the expiration of the prescribed time period under PCT Rule

26bis.1(a). The Notification indicated that the defective priority claim would not, however, be considered void.

On 01 October 2008, the RO/US mailed a "Notification Relating To Priority Claim" (Form PCT/RO/111) also indicating that the defective priority claim could not be corrected because the required application number was not timely provided.

On 03 October 2008, applicant filed the "Request For Rectification Under Rule 91.1 In Response To Notification Relating To Priority Claim" petition considered herein.

DISCUSSION

The record is clear that applicant did not provide the required application number for the second priority claim until 14 August 2008, well after the expiration of the 16-month deadline for such corrections set forth in PCT Rule 26bis.1(a). Thus, as indicated in the Form PCT/IB/318 mailed 30 September 2008 and the Form PCT/RO/111 mailed 03 October 2008, applicant's 14 August 2008 request to correct the second priority claim so as to add the required application number was untimely. The request was therefore not grantable pursuant to PCT Rule 26bis.1(a).

As an alternative to PCT Rule 26bis, the present submission requests that the missing application number be added to the defective priority claim as a rectification of obvious error under PCT Rule 91.1. However, as set forth in PCT Rule 91.1(c), rectification is only appropriate "if, and only if, it is obvious to the competent authority that, as at the applicable date under paragraph (f), something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification." The purported obvious error herein was contained in the international application as filed; thus, pursuant to PCT Rule 91.1(f), the "applicable date" for consideration is the international filing date. Based on the above, rectification is only appropriate here if, as of the international filing date, it was apparent that "something else was intended" when applicant stated that the priority application number was "Not yet assigned," and that "nothing else could have been intended" as the second priority claim's application number other than application number 60/960,971. However, in the present case, it is not apparent that "something else was intended" by applicant's statement in the PCT Request that the application number for the second priority claim was "Not yet assigned." Rather, this appears to be a correct statement of the circumstances as of the international filing date. In addition, it is not true that at the time the application was filed "nothing else could have been intended" as the application number for the second priority claim other than application number 60/960,971, a number which had not yet been assigned by the USPTO when the international application was filed. Accordingly, applicant's request for rectification of the defective priority claim pursuant to PCT Rule 91.1 is appropriately dismissed.

It is noted that, pursuant to PCT Rule 26bis.2(c)(i), the defective priority claim, while remaining defective, is not considered void.

CONCLUSION

Applicant's request under PCT Rule 91.1 to correct the defective second priority claim so as to add application number 60/960,971 is **DISMISSED** without prejudice.

The second priority claim herein remains defective for failure to include the required application number. Such priority claim has not, however, been considered void.

The application is being referred to the RO/US for further processing in accordance with this decision.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

22 APR 2008

ROHM, BENITA J.
ROHM & MONSANTO, PLC
12 Rathbone Place
Grosse Pointe, MI 48230

In re Application of:	:	
SANLUIS RASSINI INTERNATIONAL Inc. et al.	:	DECISION
PCT Application No.: PCT/US07/22610	:	
Int. Filing Date: 24 October 2007	:	UNDER
Priority Date: 24 October 2006	:	
Atty Docket No.: RM.MRB	:	
For: PERMEABLE ANNULUS	:	37 CFR § 1.10 (d)
	:	

This decision is in response to applicant's "PETITION PURSUANT TO 37 C.F.R. 1.10(c) OR (d)" filed 21 December 2007, which has been treated as a petition under 37 CFR § 1.10(d). No petition fee is required.

BACKGROUND

As indicated on the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed on 22 January 2008, the present application has been accorded an international filing date of 25 October 2007 by the United States Receiving Office (RO/US).

On 21 December 2007, applicant filed the present petition requesting the international filing date be corrected to 24 October 2007. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EQ621516167US. This receipt bears an altered "Date in" date of 24 October 2007.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be corrected to 24 October 2007.

Any correspondence received by the United States Patent and Trademark Office ('Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Because the "Date in" date has been altered on the Express Mail label and does not clearly indicate a "Date in" date of 24 October 2007, the petition will be treated under the provision of 37 CFR § 1.10(d). 37 CFR § 1.10(d) 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 the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The present petition was filed promptly as required under 37 CFR § 1.10(d)(1).

The Transmittal Letter filed with the international application identifies the "Express Mail" label number EQ621516167US thus satisfying § 1.10(d)(2). With regard to § 1.10(d)(3), petitioner has furnished a declaration by Benita Rohm, who deposited the Express mail package in question with the USPS. Applicant also submitted a customer receipt from the USPS that identifies the same Express Mail Label No. with the purchase date of 24 October 2007. This is further confirmed by USPS records that the Express Mail package was "accepted" on 24 October 2007. (See attached Track & Confirm record available at the USPS website.)

Based on the above evidence, pursuant to 37 CFR § 1.10(d), the international filing date is appropriately corrected to 24 October 2007.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 24 October 2007 is **GRANTED**. A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 24 October 2007 will be mailed with this decision.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 22 January 2008 is hereby **VACATED**.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Attachment:
USPS Track and Confirm

CC: International Bureau of WIPO

34, Chemin des Colombettes
1211 Geneva 20 Switzerland

12 JAN 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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BEN J. YORKS
IRELL & MANELLA LLP
840 NEWPORT CENTER DR., STE.400
NEWPORT BEACH CA 92660

In re Application of	:	
CLARIANT TECHNOLOGIES CORP.	:	DECISION
PCT No.: PCT/US2007/022729	:	
Int. Filing Date: 26 October 2007	:	
Priority Date: 27 October 2006	:	
Attorney's Docket No.: 158802P7PCT	:	
For: METHOD AND APPARATUS FOR MICROWAVE AND MILLIMETER-WAVE IMAGING	:	

This decision is response to applicant's "REQUEST TO RESTORE RIGHT OF PRIORITY" filed in the United States Patent and Trademark Office (USPTO) on 08 September 2008, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 24 January 2008, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) according the application an international filing date of 26 October 2007 and a priority date of 27 October 2006.

On 24 January 2008, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY (Form PCT/RO/110) indicating, *inter alia*, that the indication of the number of the earlier application was missing and that the filing date indicated for item (2) in Box No. VI does not fall within the period of 12 months preceding the international filing date.

On 04 February 2008, applicant filed a response indicating that the application number for item (2) in Box No. VI was U.S. serial number 11/978,055.

On 03 March 2008, the RO/US mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/RO/111) indicating that the priority claim for item (2) in Box No. VI of the Request was considered void.

On 03 March 2008, the International Bureau (IB) mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/IB/318) indicating that the priority claim was considered void.

On 08 September 2008, applicant filed the instant submission which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

Applicant requests that the priority claim in item (2) in Box No. VI be changed to U.S. serial number 11/978,055 and not be considered void.

Correspondence filed with the USPTO is accorded a receipt date, not a receipt date and time. Thus, applications filed on the same day are accorded the same receipt date. For example, if one application were filed six hours earlier than a second application both filed on the same date, both are accorded the same receipt date. The first application is not prior to the second application because they both have the same receipt date.

Because U.S. Application No. 11/978,055 has the same filing date as the present international application, U.S. Application No. 11/978,055 is not a prior application. (See also, MPEP 1819 which states in relevant part, "[a] corresponding U.S. national application having the same filing date as the international application is not a 'prior' application for purposes of 37 CFR 1.445(a)(2).") Accordingly, the priority claim in item (2) in Box No. VI of the Request is properly considered void.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

/Daniel Stemmer/

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Office of Patent Cooperation Treaty
Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Charles L. Hamilton
900 Lafayette St., Suite 509
Santa Clara, California 95050

In re Application of	:	
MU-GAHAT ENTERPRISES, L.L.C.	:	DECISION ON PETITION
PCT No.: PCT/US07/23127	:	
Int. Filing Date: 01 November 2007	:	UNDER 37 CFR 1.182
Priority Date: 05 October 2006	:	
Attorney's Docket No.: 38-1-1PC	:	
For: REVERSE SIDE FILM LASER CIRCUIT ETCHING	:	

This decision is response to applicant's request for restoration of priority filed in the United States Patent and Trademark Office (USPTO) on 01 November 2007. The request is being treated as a petition under 37 CFR1.182. As authorized the $400.00 petition fee will be charged to deposit account number 50-1063.

BACKGROUND

On 01 November 2007, applicant filed a PCT Request (Form PCT/RO/101) in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority. The filed PCT Request form identified the priority item as U.S. application serial number 11/544,499 filed 05 October 2006. The filed PCT Fee Calculation sheet detailed the $400.00 petition fee for restoration of priority.

DISCUSSION

Applicant has presently included a statement that the "Failure to file the international application on or before 05/10/07 was unintentional" is being construed to indicate that entire delay in filing the international application within the priority period was unintentional. If this interpretation is incorrect applicant should contact the USPTO immediately. A review of the filed PCT Request finds the priority item properly claimed in box VI-1. In addition, applicant has filed the present request for restoration of priority within 14 months of the filing of the priority item. Lastly, applicant has provided payment of the $400.00 petition fee. As such, it is appropriate to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is **GRANTED**.

A Form PCT/RO/159 accompanies this decision.

This application is being forwarded to the RO/US for further processing in accordance with this decision; namely (1) the addition of priority claim of U.S. application serial number 11/544,499 filed 05 October 2006; (2) the preparation and mailing of a "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) indicating a priority date of 05 October 2006.

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CC: International Bureau of WIPO
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CH-1211 Geneva 20
Switzerland

11 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JOHN P. WHITE
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1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of CAPON	:	
PCT Application No.: PCT/US2007/023298	:	
Int. Filing Date: 31 October 2007	:	DECISION
Priority Date Claimed: 02 November 2006	:	
Attorney Docket No.: 75681-A-PCT	:	
For: HYBRID IMMUNOGLOBULINS WITH MOVING PARTS	:	

This is in response to applicant's "Petition to Correct Error in Filing Date of PCT International Application" filed 16 January 2009, which is being treated under 37 CFR 1.10(c). No petition fee is due.

BACKGROUND

On 31 October 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 02 November 2007.

On 28 August 2008, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 16 January 2009, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter filed with the international application papers and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a "date-in" of 31 October 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 28 August 2008 is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

09 JUN 2008

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
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SAN FRANCISCO CA 94102

In re Application of	:	
VOLTAGE SECURITY, INC.	:	DECISION
PCT No.: PCT/US07/23416	:	
Int. Filing Date: 06 November 2007	:	ON
Claimed Priority Date: 08 November 2006	:	
Attorney's Docket No.: ID-31-PCT	:	PETITION
For: Indentity-Based-Encryption Extensions Formed Using Multiple Instances Of An Indentity-Based Encryption Scheme	:	

This is in response to the "Petition For Correction Of The International Filing Date" filed on 19 March 2008.

BACKGROUND

On 12 March 2008, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 07 November 2007 was mailed to applicant.

DISCUSSION

Petitioner indicates that the "PCT Notification of the International Application Number and of the International Filing Date contained an error. The International filing date is wrong. The correct International filing date is 6 November 2007..." In support, petitioner provides a copy of a return postcard receipt itemizing a Transmittal Letter, a PCT Request, a PCT Fee Calculation Sheet, a PCT Power of Attorney, a Specification, Claims, an Abstract, Drawings and a check, and which is stamped as "Rec'd PCT 06 NOV 2007." Petitioner also provides a copy of the Customer Copy of Express Mail mailing label EV749457841US, showing a "Date Accepted" of "11 6 07."

Review of the electronic records of the United States receiving Office (RO/US) reveals that an international filing date of 06 November 2007 was entered electronically, but that the PCT Request was stamped with an international filing date of 07 November 2007. MPEP 503 states in part that

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Following the policy described at MPEP 503, the correspondence itemized on the return postcard receipt is regarded as having been filed on 06 November 2007. Accordingly, the Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) mailed on 12 March 2008 was issued in error, and it is hereby **VACATED**.

DECISION

Applicants' petition is **GRANTED**, for the reasons described *supra*.

A new Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) showing the corrected international filing date of **06 November 2007** is being issued.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

enc: Corrected PCT Request (Form PCT/RO/101), first page

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No. PCT/US 07/23416

International Filing Date 06 NOV 2007

RO/US
Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* ID-31 PCT

Box No. I TITLE OF INVENTION

INDENTITY-BASED-ENCRYPTION EXTENSIONS FORMED USING MULTIPLE INSTANCES OF AN INDENTITY-BASED ENCRYPTION SCHEME

Box No. II APPLICANT ☐ This person is also inventor

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

VOLTAGE SECURITY, INC.
1070 Arastradero Road, Suite 100
Palo Alto, California 94304
United States of America

Telephone No. 650 543-1280
Facsimile No. 650 543-1279
Teleprinter No.
Applicant's registration No. with the Office

State *(that is, country)* of nationality: United States of America

State *(that is, country)* of residence: United States of America

This person is applicant for the purposes of: ☐ all designated States ☒ all designated States except the United States of America ☐ the United States of America only ☐ the States indicated in the Supplemental Box

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)*

BOYEN, Xavier
P.O. Box 50011
Palo Alto, California 94303-0011
United States of America

This person is:
☐ applicant only
☒ applicant and inventor
☐ inventor only *(If this check-box is marked, do not fill in below.)*

Applicant's registration No. with the Office

State *(that is, country)* of nationality: Belgium

State *(that is, country)* of residence: United States of America

This person is applicant for the purposes of: ☐ all designated States ☐ all designated States except the United States of America ☒ the United States of America only ☐ the States indicated in the Supplemental Box

☐ Further applicants and/or (further) inventors are indicated on a continuation sheet.

Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: ☒ agent ☐ common representative

Name and address: *(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)*

TREYZ, G. Victor
870 Market Street, Suite 984
San Francisco, California 94102
United States of America

Telephone No. 408 768-8368
Facsimile No. 415 837-0651
Teleprinter No.
Agent's registration No. with the Office 36,294

☐ **Address for correspondence:** Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

See Notes to the request form

UNITED STATES PATENT AND TRADEMARK OFFICE

10 MAR 2008

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

Marina F. Cunningham
MCCORMICK, PAULDING & HUBER, LLP
185 Asylum Street, CityPlace II
Hartford, CT 06103-3402

In re Application of	:	
THE WIREMOLD COMPANY	:	
PCT No.: PCT/US07/23575	:	DECISION UNDER
Int. Filing Date: 08 November 2007	:	37 CFR 1.181
Priority Date: 09 November 2006	:	
Agent's File Reference: 3924-0242WO	:	
For: DC POWER OUTLETS IN FIXED POWER DISTRIBUTION SYSTEMS IN OR ON WALL INSTALLATIONS	:	

Applicants' 25 February 2007 communication is being treated as a petition under 37 CFR 1.181 requesting that the copies of drawing sheets nos. 2/9, 7/9 and 8/9 filed with the present petition be accepted in lieu of the originals filed on 08 November 2007. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 08 November 2007, applicants filed international application PCT/US07/23575, which claimed priority to a U.S. application filed 09 November 2006.

On 28 January 2008, The United States Receiving Office (RO/US) mailed an "INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE, MISSING" (Form PCT/RO/107) informing applicants that drawing sheets nos. 2/9, 7/9 and 8/9 appear to be missing.

On 25 February 2008, applicants filed the present petition forwarding, inter alia, a copy of drawing sheets nos. 2/9, 7/9 and 8/9 and a copy of the return receipt postcard indicating receipt of drawing sheets nos. 1/9-9/9 with the original application papers filed on 08 November 2007.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO".

A review of the papers filed with the present petition reveals that applicants have provided sufficient evidence that drawing sheets nos. 2/9, 7/9 and 8/9 filed with the present petition were filed with the original application papers on 08 November 2007. The petition indicates that the accompanying copies of drawing sheets nos. 2/9, 7/9 and 8/9 are true copies of the originals filed on 08 November 2007. The copy of the return receipt postcard itemizes, inter alia, "Drawings - # of sheets 9". Accordingly, the copies of drawing sheets nos. 2/9, 7/9 and 8/9 filed with the present petition may properly be **ACCEPTED** as having been filed on **08 November 2007.**

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED.**

The present application is being forwarded to the RO/US for the treating of drawing sheets nos. 2/9, 7/9 and 8/9 filed with the present petition as having been filed on 08 November 2007 and to forward copies of drawing sheets nos. 2/9, 7/9 and 8/9 to the International Bureau.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

JSF/BL:jf

(571) 272- 3284

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34 chemin des Colombettes
1211 Geneve 20 (SUISSE)

01 FEB 2008

United States Patent and Trademark Office

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

MARC I. EPSTEIN
200 EAST 94 ST. (APT. 603)
NEW YORK NY 10128

In re Application of	:	
Epstein	:	DECISION
PCT No.: PCT/US07/23606	:	
Receipt Date: 09 November 2007	:	ON
Priority Date: None claimed	:	
Attorney's Docket No.: 6818/91,882	:	PETITION
For: Adjustable Tray Assembly For Holding Beverage Containers And Other Items	:	

This is in response to the "Petition to vacate Form PCT/RO/102" filed on 05 December 2007, which is being treated under 37 CFR 1.183.

BACKGROUND

Applicants filed this international application with the United States receiving Office via "Federal Express" ("FedEx"). The Office received the application papers on 09 November 2007.

On 05 December 2007, a Notification Concerning Payment Of Prescribed Fees (Form PCT/RO/102) was mailed, showing a "Balance" due of $788.00.

DISCUSSION

Petitioner observes that a fee increase occurred on 09 November 2007, and in effect requests that this international application be accorded an international filing date of 08 November 2007, rather than 09 November 2007, on the basis of the transmission by Federal Express. 35 U.S.C. 21 provides in part that

> (a) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

While 37 CFR 1.10(a) provides that

> (1) 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.
>
> (2) 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).

Thus, 35 U.S.C. 21 permits the USPTO to consider correspondence to have been filed in the Office on the day it is deposited with the United States Postal Service (USPS). This authority is implemented in 37 CFR 1.10, the regulation governing Express Mail submissions. However, the statute (35 U.S.C. 21) does not grant the USPTO the authority to consider correspondence filed with the USPTO on its date of deposit with any entity other than the USPS. Petitioner argues that the IRS follows a different procedure regarding FedEx parcels, that petitioner was unaware of 37 CFR 1.10, and that a PCT Help Desk representative failed to advise petitioner of the consequences of using FedEx as opposed to Express Mail.

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).

By requesting the grant of an international filing date on the basis of a date of deposit with Federal Express, petitioner is in effect requesting that the Office suspend or waive the requirements of a regulation (37 CFR 1.10), but also of the underlying statute (35 U.S.C. 21). However, the Office does not enjoy the authority to waive or suspend the requirements of 35 U.S.C. 21, or to extend or modify the authority which 35 U.S.C. 21 grants the USPTO. Since the statute does not grant the USPTO the authority to consider correspondence deposited with Federal Express to have been filed with the USPTO on the date of such deposit, it would not be appropriate to grant the relief requested by petitioner.

DECISION

The petition is **DISMISSED**, without prejudice, for the reasons described *supra*.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

08 MAY 2008

JIE ZHOU
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA CALIFORNIA 94304-1018

In re Application of UNIVERSITY OF HAWAII	:	DECISION ON
PCT No.: PCT/US07/24163	:	
Int. Filing: 15 November 2007	:	PETITION
Priority Date: 15 November 2006	:	
Attorney Docket No.: 606842000240	:	UNDER 37 CFR 1.10(c)
For: HUMAN COMPLEMENT C3 DERIVATIVES WITH COBRA VENOM FACTOR-LIKE FUNCTION	:	

This decision is in response to applicant's "PETITION FOR A CORRECTED INTERNATIONAL FILING DATE", treated as a petition under 37 CFR 1.10(c) and filed in the United States Patent and Trademark Office (USPTO) on 18 March 2008, to accord a filing date of 15 November 2007 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/24163 with the United States Receiving Office, claiming a priority date of 15 November 2006 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 16 November 2007.

On 14 March 2008, the Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) was mailed indicating an international filing date of 16 November 2007.

On 14 March 2008, applicant filed the present request, including, *inter alia*, a copy of the United States Postal Service (USPS) Customer Receipt of the "Express Mail" mailing label and USPS Sales Receipt dated 15 November 2007.

DISCUSSION

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 contains a copy of the "Express Mail" Mailing Label # EV335363785US, which bears a USPS barrel stamp date of "NOV 15 2007" and "Date-In"of "11/15/07". The transmittal letter having "Express Mail" mailing label Express Mail #EV335363785US thereon is contained in the application file.

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 15 November 2007. Specifically, the "Express Mail" label number ("EV335363785US") appears on "Express Mail" certificate on the Transmittal Letter to the United States Receiving Office. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the international application papers were deposited on 15 November 2007.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of 15 November 2007 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 14 March 2008 is hereby **VACATED**.

A corrected Notification of the International Application Number and of the International Filing Date will be mailed indicating an international filing date of 15 November 2007.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

cc: The International Bureau of WIPO
34, chemin des Colombettes
1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

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

10 DEC 2007

Kristofer Elbing
187 Pelham Island Road
Wayland, MA 01778

In re Application of	:	
MALVERN INSTRUMENTS, INC.	:	
PCT No.: PCT/US07/24337	:	DECISION ON PETITION
Int. Filing Date: 20 November 2007	:	
Priority Date: 20 November 2006	:	UNDER 37 CFR 1.10(c)
Attorney Docket No.: M0005-032WO3	:	
For: SPECTROMETRIC CHARACTERIZATION OF PHARMACEUTICAL HETEROGENEITY	:	

This decision is in response to applicant's "Request For Corrected Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 06 December 2007 to accord an international filing date of 20 November 2007. The request is being treated under 37 CFR 1.10(c). No petition fee is due.

BACKGROUND

Applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 20 November 2006. Applicant's return receipt postcard indicated a receipt date of 21 November 2007.

On 06 December 2007, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 20 November 2007 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 21 November 2007.

DISCUSSION

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

A copy of this decision will be forwarded to the International Bureau (IB).

The application is being returned to the United States Receiving Office (RO/US) for processing in accordance with this decision. The application is currently in a security hold. When the application clears the office of license and review, the RO/US will mail applicant a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) indicating an international filing date of 20 November 2007.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE
DOCUMENT CLASSIFICATION BARCODE SHEET

Missing During Scanning

Index 99
Version 1.0

Docume

DATE 12/10/07 APPLICATION NUMBER PCT/US07/24337

DOC CODE PET. PCT DOC DATE

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

(571) 273 0459

VIA FACSIMILE

IN THE UNITED STATES RECEIVING OFFICE

Applicant:	Malvern Instruments, Inc.
International Application. No.:	PCT/US2007/24337
International Filing Date:	November 20, 2007 (incorrectly listed as November 21, 2007)
Title:	SPECTROMETRIC CHARACTERIZATION OF PHARMACEUTICAL HETEROGENEITY

RECEIVED
6 DEC 2007
Legal Staff
International Division

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

REQUEST FOR CORRECTED FILING DATE

Applicants are in receipt of the filing confirmation postcard for this application. But the international filing date reported on this postcard does not reflect the Express Mail mailing date for this application. Attached is a copy of the Express Mail receipt for this application, which shows that this application should be entitled to an international filing date of November 20, 2007. Applicants therefore respectfully request that the US receiving office's records be updated to accord applicant a filing date of November 20, 2007. Applicant also requests that it issue a notice to this effect.

Should further questions arise concerning this application, the authorized officer is invited to call applicants' representative at the number listed below.

Respectfully submitted,

December 6, 2007
Dated

Kristofer E. Elbing
Registration No. 34,590
187 Pelham Island Road
Wayland, MA 01778
Telephone: (508) 358-2590
Facsimile: (508) 358-0714

PCT/US2007/024337 10.12.2007
KRISTOFER E. ELBING
12/06/2007 14:48 FAX 508 358 0714
002/002

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

POST OFFICE TO ADDRESSEE

*EU806082296U

SEE REVERSE SIDE FOR SERVICE GUARANTEE AND INSURANCE COVERAGE LIMITS

ORIGIN (POSTAL USE ONLY)

PO ZIP Code: 01776	Day of Delivery: ☐ Next ☑ Second	Flat Rate Envelope: ☐
Date In: 11/6/07 (Mo. Day Year)	11/2/07 ☐ 12 Noon ☐ 3 PM	Postage: $ 16.25
Time In: 6:00 ☐ AM ☑ PM	Military: ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee:
Weight: 1 lbs. ozs.	Int'l Alpha Country Code:	COD Fee: / Insurance Fee:
No Delivery: ☐ Weekend ☐ Holiday	Acceptance Clerk Initials: KVL	Total Postage & Fees: $ 16.25

☐ WAIVER OF SIGNATURE (Domestic Only): Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and authorize that delivery employee's signature constitute valid proof of delivery.

NO DELIVERY: ☐ Weekend ☐ Holiday

Customer Signature

CUSTOMER USE ONLY

METHOD OF PAYMENT
Express Mail Corporate Acct. No.

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE ( )

Kristofer E. Elbing
187 Pelham Island Road
Wayland, MA 01778

TO: (PLEASE PRINT) PHONE ( )

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

ZIP + 4

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	9365
RECIPIENT ADDRESS	508 358 0714
DESTINATION ID	
ST. TIME	12/06 13:48
TIME USE	00'46
PGS.	2
RESULT	OK

11 SEP 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

ROBERT LODENKAMPER
2345 YALE STREET, 2ND FLOOR
PALO ALTO, CA 94306

In re Application of :
FULTEC SEMICONDUCTOR, INC. :
PCT Application No.: PCT/US2007/024408 :
Int. Filing Date: 21 November 2007 : DECISION
Priority Date Claimed: 21 November 2006 :
Attorney Docket No.: FLT-160/PCT :
For: BI-DIRECTIONAL TRANSIENT :
BLOCKING UNIT HAVING A DUAL-GATE :
TRANSISTOR :

This is in response to applicant's "Petition to Correct Filing Date Under 37 CFR 1.10(c)" filed 21 February 2008.

BACKGROUND

On 21 November 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 23 November 2007.

On 06 February 2008, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 21 February 2008, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the Transmittal Letter (Form PTO-1382) and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a "date-in" of 21 November 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

26 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL P. GIRARD
KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER, SUITE 1600
121 SW SALMON STREET
PORTLAND, OR 97204

In re Application of :
DOLBY LABORATORIES LICENSING CORP. :
PCT Application No.: PCT/US2007/024498 :
Int. Filing Date: 27 November 2007 :
Priority Date Claimed: 27 November 2006 : DECISION
Attorney Docket No.: 22-80138-01 :
For: APPARATUS AND METHODS FOR BOOSTING DYNAMIC RANGE IN DIGITAL IMAGES :

This is in response to applicant's "Response to Invitation to Pay Fees Request for Correction of Filing Date" filed 27 December 2007, which is being treated as a petition under 37 CFR 1.10(c). No petition fee is due.

BACKGROUND

On 27 November 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was assigned the above-identified International Application Number and was accorded an International Filing Date of 28 November 2007.

On 27 December 2007, applicant filed the present petition under 37 CFR 1.10(c).

On 04 February 2008, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

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 Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the Transmittal Letter (Form PTO-1382) and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a "date-in" of 27 November 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is hereby VACATED.

This application is being forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision. A corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) is attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

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PCT Legal Office

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ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

20 DEC 2007

Thomas R. Arno
Knobbe, Martens, Olson & Bear, LLP
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In re Application of
CENERX BIOPHARMA, INC.
PCT No.: PCT/US07/24547
Int. Filing Date: 28 November 2007
Priority Date: 30 November 2006
Attorney Docket No.: CENERX.006VPC
For: DIALKYLAMINO ALKYL ESTERS OF PIVAGABINE AS MEDICAMENTS FOR THE TREATMENT OF CENTRAL NERVOUS SYSTEM DISORDERS

DECISION ON PETITION

UNDER 37 CFR 1.10(c)

This is a decision on applicant's "Petition to Correct The Filing Date Under PCT Article 11 And 37 CFR §1.10(c)" filed in the United States Patent and Trademark Office (USPTO) on 13 December 2007.

On 28 November 2007, applicant filed a PCT Request with the USPTO which claimed priority of an earlier U.S. application filed 30 November 2006.

On 13 December 2007, applicant filed the present petition.

An examination of USPTO records finds that while applicant has received a stamped return postcard, the papers have yet to be accorded an international filing date. For this reason, applicant's petition under 37 CFR 1.10(c) is **DISMISSED as moot**.

It is noted that a review of the Express Mail mailing envelope shows an Express Mail "Date-In" date of 28 November 2007. As such, when the United States Receiving Office (RO/US) processes the international application it will be accorded an international filing date of **28 November 2007**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing of the international application.

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11 AUG 2009

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In re Application of	:	
KERATEC, Ltd.	:	
PCT No.: PCT/US2007/25240	:	DECISION
Int. Filing Date: 11 December 2007	:	
Priority Date: 11 December 2006	:	ON PETITION UNDER
Docket No.: KELL3016PCT	:	
For: POROUS KERATIN CONSTRUCT AND METHOD OF MAKING THE SAME	:	37 CFR 1.181

This decision is in response to applicant's petition under 37 CFR 1.181 to accept the drawings as originally filed, filed in the United States Patent and Trademark Office on 30 January 2008.

BACKGROUND

On 11 December 2007, applicant filed international application PCT/US2007/025240 via Express Mail.

On 30 January 2008, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had an international filing date of 11 December 2007 and an Invitation Relating to Certain Parts of the International Application That Are, Or Appear To Be Missing (Form PCT/RO/107).

On 30 January 2008, applicant submitted a petition under 37 CFR 1.181, to accept a copy of the drawings as originally filed.

DISCUSSION

MPEP at section 503 states, in part:

> 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.

Applicants have furnished a postcard receipt listing, *inter alia*, 1 sheet of drawings. The postcard identifies this application by title and applicant. The postcard is stamped "11 December 2007" by the Office. The copy of the sheet of drawings is accepted as having been received 11 December 2007.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to accept the copy of the sheet of drawings as having been received 11 December 2007 is **GRANTED**.

The application is being returned to the United States Receiving Office for continued processing.

/Erin P. Thomson/

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cc: International Bureau
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1211 Geneva 20
Switzerland

Enc: Drawings, 1 sheet

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08 MAY 2008

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In re Application of	
DON JULIANO et al.	
PCT No.: PCT/US07/25363	DECISION ON PETITION
Int. Filing Date: 12 December 2007	
Priority Date: 12 December 2006	TO CORRECT
Atty. Docket No.: 3288-8001PC	
For: INSERT TRAYS FOR PACKAGES, PACKAGES INCLUDING SUCH TRAYS, AND METHODS FOR PACKAGING ...	FILING DATE

This is a decision on applicant's Letter Communication to request a corrected filing date in the United States Patent and Trademark Office (USPTO) on 11 March 2008. Applicant, in effect, requests that a filing date of 11 December 2007 be accorded to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US07/25363, which claimed a priority date of 12 December 2006.

On 17 January 2008, a Notification of the International Application Number and of the International Filing Date was mailed to applicant indicating that the International filing date of the application is 12 December 2007. On 18 January 2008, an Invitation to Correct Priority Claim (Form PCT/IB/316) was also mailed inviting applicant to correct the claim to priority.

On 11 March 2008, applicant filed a communication with the USPTO indicating that the PCT/RO/105 was sent in error because the international application was filed by Federal Express on 11 December 2007 and should .

DISCUSSION

Petitioner states that on 11 December 2007, the above referenced PCT international patent application was prepared and ready for electronic submission to US/RO, via EFS-Web Registered eFilers, when applicant was notified that the system was unavailable for electronic filing. Petitioner's attention is drawn to the instruction issued on 29 November 2007 on our website: www.uspto.gov/ebc/portal/efs/legal. The instruction states the following:

XXVIII. Hours of Operation

Hours of operation of the EFS-Web will be clearly provided in the EFS-Web instructions. If a transmission is attempted during a down time, the Office cannot accept it and will, if possible, transmit back a notice that the Office is not accepting submissions. No Acknowledgement Receipt will be sent. Instead *a notice will advise the applicant/reexamination party to use alternative filing methods, such as hand delivery of paper to the USPTO or Express Mail (under 37 CFR 1.10), to establish the filing date.* Note that most applications filed under 37 CFR 1.53, and reexamination requests, cannot be submitted by fax (37 CFR 1.6(d)(3) and (5)), and that normal certificate of mailing procedures do not apply to new applications and reexamination requests (37 CFR 1.8(a)(2)(i)(A) and (D)). *Users are strongly advised to transmit their electronic filings sufficiently early in the day to allow time for alternative paper filing when transmission cannot be initiated or correctly completed.*

If the submission is successfully received on a Saturday, Sunday or Federal holiday within the District of Columbia, the Office will assign that receipt date at the USPTO to the submission.

(Emphasis added.)

Applicant did not employ the United States Postal Service (USPS) Express Mail service to deliver the international application papers to the USPTO as the United States Receiving Office (RO/US) indicating that he was "unable to mail hard copies of the application via Express Mail, United States Postal Service, because the offices were closed". Petitioner does not offer any explanation as to why he did not use a USPS location, which was open for business. See the USPS website www.usps.gov for details of other USPS offices in the area. Instead applicant used Federal Express Priority Overnight delivery. The Federal Express Priority Overnight delivery, which accompanied applicant's request, indicates that applicant deposited the application papers with Federal Express on 11 December 2007. The application papers were delivered to the USPTO on 12 December 2007. Pursuant to 37 CFR 1.6(a),correspondence received in the USPTO is stamped with the date of receipt. The date of receipt of the international application papers, 12 December 2007, is the date stamped upon the application.

Only correspondence delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) to the U.S. Patent and Trademark Office (USPTO) will be considered filed with the USPTO on the date of deposit with the USPS. *See* 37 CFR 1.10(a)(1). Federal Express Priority overnight delivery service is not USPS Express Mail service and thus, is not considered filed in the USPTO under 37 CFR 1.10. Thus, the papers filed using Federal Express Priority overnight delivery did not receive the filing date of 11 December 2007 but the date of receipt of 12 December 2007.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of 11 December 2007 is **DISMISSED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 17 January 2008 remains in effect indicating an international filing date of 12 December 2007.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing.

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0 8 OCT 2008

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RICHARD A. HINSON
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In re Application of	:	
FLORIDA ATLANTIC UNIVERSITY	:	
PCT Application No.: PCT/US2007/025728	:	
Int. Filing Date: 11 December 2007	:	DECISION
Priority Date Claimed: 11 December 2006	:	
Attorney Docket No.: 6818-152WO	:	
For: SYSTEM AND METHODS OF IMAGE RETRIEVAL	:	

This is in response to applicant's "Response to Invitation to Correct Priority Claim" filed 27 March 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 11 December 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 22 February 2008, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) and an Invitation to Correct Priority Claim (Form PCT/RO/110).

On 27 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the international application papers were originally filed on 11 December 2007. Specifically, the copy of the return postcard, which includes the international application papers in its itemized contents and which bears a USPTO date stamp of 11 December 2007, serves as *prima facie* evidence that the international application papers were received by the USPTO on 11 December 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) and the Invitation to Correct Priority Claim (Form PCT/RO/110) are hereby VACATED.

The application is being forwarded to the RO/US for processing in accordance with this decision. A copy of this decision is being sent to the International Bureau (IB).

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ATTACHMENT: corrected Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105)

UNITED STATES PATENT AND TRADEMARK OFFICE

0 8 SEP 2008

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MEGAN STOPEK
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In re Application of	:	
TYCO HEALTHCARE GROUP LP	:	
PCT No.: PCT/US07/26003	:	
Int. Filing Date: 20 December 2007	:	DECISION ON PETITION
Priority Date: 22 December 2006	:	
Attorney's Docket No.: H-US-00358 PCT	:	UNDER 37 CFR 1.181
For: COATING COMPOSITIONS	:	

This decision is in response to applicant's "PETITION Under 37 CFR 1.181" filed 20 May 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

BACKGROUND

On 20 December 2007, applicant filed international application along with an itemized postcard. The papers were assigned application number PCT/US07/26003. The post card was returned to applicant bearing USPTO date-stamp of 20 December 2007 with no annotations.

On 04 March 2008, a Notification of International Application Number and International Filing Date (Form PCT/RO/105) was mailed to applicant indicating a filing date of 20 December 2007. On the same day, An "Invitation Relating to Certain Parts of the International Application that are or Appear to be Missing"(Form PCT/RO/107) pursuant to PCT Rule 20.5(a) was also mailed. The Form PCT/RO/107 indicated that drawing page 1/1 (reference to drawings which appear to be missing is made on pages 4 of the description) was missing.

On 19 March 2008, in response to the Form PCT/RO/107, applicant furnished the missing drawing sheet.

On 29 April 2008, a Notification Concerning Later Submitted Parts of an International Application was mailed to applicant indicating that a missing part (one drawing sheet), furnished by the applicant, was received on 19 March 2008 and accorded an international filing date of 19 March 2008. The International Bureau (IB) was advised of the change in international filing date and on 29 May 2008 the IB issued a "Communication in Cases For Which No Other Form is Applicable" (Form PCT/IB/345) reflecting a corrected international filing date of 19 March 2008.

On 29 May 2008, applicant filed the instant Petition under 37 CFR 1.181 including a copy

of drawing sheet 1 and a copy of the USPTO itemized date-stamped post card receipt.

DISCUSSION

A review of the USPTO record for PCT/US07/26003 indicates that Page 1 of the drawing sheets was not among the papers filed on 20 December 2007. A copy of Drawing sheet 1 of the international application was submitted with the petition filed on 20 May 2008.

As stated in section 503 of the Manual of Patent Examining Procedure (MPEP):

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.....

A review of the USPTO 20 December 2007 date-stamped, itemized postcard receipt for PCT/US07/26003 reveals, *inter alia*, the following annotation: "1 sheets of drawing". The postcard receipt is *prima facie* evidence that one drawing sheet was present upon filing. A review of the papers filed with the petition reveals that applicant provided sufficient evidence that one drawing sheet was present with the application as filed on 20 December 2007. Thus, the evidence submitted is sufficient to establish that one drawing sheet was received in the USPTO on 20 December 2007. Accordingly, for the reasons set forth above, it is appropriate to accord a deposit date of 20 December 2007 to the replacement drawing sheet 1. Thus, the international filing date for PCT application PCT/US07/26003 is 20 December 2007.

The "Invitation Relating to Certain Parts of the International Application that are or Appear to be Missing" (Form PCT/RO/107) mailed on 29 April 2008 is hereby vacated.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED.** The "Invitation Relating to Certain Parts of the International Application that are or Appear to be Missing" (Form PCT/RO/107) mailed on 29 April 2008 is vacated.

The international filing date for PCT/US06/26003 is 20 December 2007.

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