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01 OCT 2008

Arthur GARRETT
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GARRETT & DUNNER
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of:	:	
NATIONAL TAWAIN UNIVERSITY	:	DECISION ON
PCT No.: PCT/US07/26125	:	
Int. Filing Date: 21 December 2007	:	PETITION UNDER
Priority Date: 26 December 2006	:	
Atty Docket No.: 9405.3-304	:	37 CFR 1.181
For: DISINTEGRIN VARIANTS AND	:	
PHARMACEUTICAL USES THEREOF	:	

This decision is in response to applicants' Confirmation of Incorporation by Reference filed 02 April 2008 and Request for Issuance of Corrected Search Report filed 16 September 2008.

BACKGROUND

On 21 December 2007, applicants filed international application PCT/US2007/26125. Although the description contained disclosure of nucleotide and amino acid sequences, numbered as SEQ. ID. NOs. 1-69 and 74-135, no sequence listing was filed as a separate part of the description or in computer readable form.

On 03 March 2008, the ISA/US issued an "Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" (PCT/ISA/225). On 02 April 2008, applicants filed a "Response to Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" indicating enclosure of: a sequence listing, as a paper copy (containing SEQ. ID. NOs. 1-140) and in computer readable form; and the required statement. The statement indicated that it "is filed concurrently with a Confirmation of Incorporation by Reference to incorporate sequences that were disclosed in the priority document of the PCT application (Provisional Application No. 60/871,854);" however, no separate Confirmation of Incorporation document was provided.

On 27 May 2008, the ISA/US issued a "Communication in Cases for Which No Other Form is Applicable" (PCT/RO/132), indicating that the sequence listing would be accepted under PCT Rule 13ter.1 for search purposes only, but that the computer readable form (CRF) was defective because the wrong file was saved (i.e. invention title,

Application Number: PCT/US07/26125
docket number, or applicant(s) do not match those in the official application) and that the enclosed sequence listing was not included in the referenced priority application.

On 08 August 2008, the ISA/US issued the International Search Report and Written Opinion of the International Searching Authority (PCT/ISA/210/237). Those documents indicated that no report was established for claim numbers 4-6, 17-19, 26, 27, 35-50, and 73-88 since no correct sequence listing was submitted in response to the PCT/ISA/225. On 16 September 2008, applicants filed a request for issuance of a corrected search report that considers the timely submitted sequence listing and CRF.

DISCUSSION

Confirmation of Incorporation by Reference

The PCT/RO/132 mailed 27 May 2008 did not fully address the question as to whether the response by applicants to the PCT/ISA/225 fulfilled the requirements for confirmation of incorporation by reference; therefore, that question will be completely addressed.

The confirmation of incorporation by reference filed on 02 April 2008 was within the 2-month time limit provided by PCT Rule 20.7(a)(i) in response to the 03 March 2008 PCT/ISA/225 invitation to furnish a sequence listing (the PCT/ISA/225 is considered to be an invitation under PCT Rule 20.5 indicating that the sequence listing part of the description was missing).

PCT Rule 20.6(a) in pertinent part indicates that applicant may submit a written notice confirming that a part is incorporated by reference accompanied by "(i) a sheet or sheets embodying...the part concerned" and "(iv) in the case of a part of the description...an indication as to where that part is contained in the earlier application...". No sheet or sheets embodying the part concerned and no indication as to where that part is contained in the earlier application were provided as required by PCT Rule 20.6(a). In fact, the earlier application contained disclosure only of sequences as such; it did not itself contain a sequence listing part of the description. Applicants' statement of incorporation by reference of sequences throughout the specification of the priority document in undisclosed locations does not meet the requirements of PCT Rules 4.18 and 20.6.

Sequence Listing furnished in Response to the PCT/ISA/225

PCT Administrative Instructions, Annex C, ¶ 37, indicates "Any sequence listing which is not contained in the application as filed but which is furnished subsequently shall be accompanied by a statement to that effect. This means that a sequence listing furnished subsequently to the filing of the application shall contain only those sequences that were disclosed in the application as filed." The sequence listing furnished in response to the PCT/ISA/225 was provided both in paper and in computer readable form and included SEQ. ID. NOs. 1-140. The statement accompanying the sequence listing indicated that "the written sequence listing does not go beyond the disclosure in the priority document, Provisional Application No. 60/871,854, as filed." As discussed

Application Number: PCT/US07/26125
above, applicants' attempt to confirm incorporation by reference of sequences contained in the priority document does not meet the requirements of PCT Rules 4.18 and 20.6, and therefore, those sequences are not considered part of this international application. This international application contained disclosure of SEQ. ID. NOs. 1-69 and 74-135; however, the sequence listing provided in response to the PCT/ISA/225 contained SEQ ID. NOs. 1-140. Because the provided sequence listing contained sequences that go beyond the disclosure of the international application as filed, neither the sequence listing in paper nor in computer readable form can be accepted under PCT Rule 13ter.1 for the purposes of international search, despite the statement in the PCT/RO/132 to the contrary, concerning the paper copy.

Regarding the CRF, applicants allege in the "Request for Issuance of Corrected Search Report" filed 16 September 2008, that a response to the PCT/RO/132 was filed on 13 June 2008, containing "an edited CRF with a revised invention title and docket number (3 pgs)." Office records contain no indication of receipt of applicants' submission. Receipt of a CRF revised only with regard to the invention title and docket number, however, would not rectify the underlying problem that the sequence listing contained sequences not disclosed in the international application as filed and as such, could not be accepted for the purposes of search under PCT Rule 13ter. Therefore, the issue as to whether or not the revised sequence listing was received by the ISA/US need not be resolved.

CONCLUSION

The PCT/RO/132 mailed 27 May 2008 is hereby **VACATED**.

The Confirmation of Incorporation by Reference submitted 02 April 2008 does not comply with the requirements of PCT Rules 4.18 and 20.6, and therefore, no sequences have been incorporated into this international application from the priority document, U.S. Provisional Application No. 60/871,854.

Applicants' Request for Issuance of a Corrected Search Report filed 16 September 2008 is hereby **DISMISSED** without prejudice.

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03 APR 2009

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In re Application of:	:	
NATIONAL TAIWAN UNIVERSITY	:	DECISION ON
PCT No.: PCT/US07/26125	:	
Int. Filing Date: 21 December 2007	:	PETITION UNDER
Priority Date: 26 December 2006	:	
Atty Docket No.: 9405.3-304	:	37 CFR 1.181
For: DISINTEGRIN VARIANTS AND	:	
PHARMACEUTICAL USES THEREOF	:	

This decision is in response to applicants': 1) Request for Reconsideration of Confirmation of Incorporation by Reference and Renewed Request for Issuance of Corrected Search Report filed 10 November 2008; 2) Renewed Request for Reconsideration of Confirmation of Incorporation by Reference and Second Renewed Request for Issuance of Corrected Search Report filed 28 February 2009; and 3) Second Renewed Request for Reconsideration of Confirmation of Incorporation by Reference and Second Renewed Request for Issuance of Corrected Search Report filed 02 March 2009.

BACKGROUND

On 21 December 2007, applicants filed international application PCT/US2007/26125. Although the description contained disclosure of nucleotide and amino acid sequences, numbered as SEQ. ID. NOs. 1-69 and 74-135, no sequence listing was filed as a separate part of the description or in computer readable form.

On 03 March 2008, the ISA/US issued an "Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" (PCT/ISA/225). On 02 April 2008, applicants filed a "Response to Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" indicating enclosure of: a sequence listing, as a paper copy and in computer readable form (containing SEQ. ID. NOs. 1-140); and the required statement. The statement indicated that it "is filed concurrently with a Confirmation of Incorporation by Reference to incorporate sequences that were disclosed in the priority document of the PCT application (Provisional Application No. 60/871,854);" however, no separate Confirmation of Incorporation by Reference document was received.

Application Number: PCT/US07/26125

On 27 May 2008, the ISA/US issued a "Communication in Cases for Which No Other Form is Applicable" (PCT/RO/132), indicating that the sequence listing would be accepted under PCT Rule 13ter.1 for search purposes only, but that the computer readable form (CRF) was defective because the wrong file was saved (i.e. invention title, docket number, or applicant(s) do not match those in the official application) and that the enclosed sequence listing was not included in the referenced priority application.

On 08 August 2008, the ISA/US issued the "International Search Report and Written Opinion of the International Searching Authority" (PCT/ISA/210/237). Those documents indicated that no report was established for claim numbers 4-6, 17-19, 26, 27, 35-50, and 73-88 since no correct sequence listing was submitted in response to the PCT/ISA/225. On 16 September 2008, applicants filed a request for issuance of a corrected search report that considers the timely submitted sequence listing and CRF.

On 01 October 2008, the RO/US dismissed without prejudice applicants' request for issuance of a corrected search report that considers the timely submitted sequence listing and CRF.

On 10 November 2008, applicant filed a "Request for Reconsideration of Confirmation of Incorporation by Reference and Renewed Request for Issuance of Corrected Search Report." Applicant was notified by telephone that the postcard, purportedly demonstrating receipt by the USPTO of the Confirmation of Incorporation by Reference document, was illegible.

On 28 February 2009, applicants filed a "Renewed Request for Reconsideration of Confirmation of Incorporation by Reference and Second Renewed Request for Issuance of Corrected Search Report," purportedly providing a postcard demonstrating receipt of the Confirmation of Incorporation by Reference document. Applicants were again notified by telephone that the postcards received were directed to receipt of the sequence listing, not the Confirmation of Incorporation by Reference document.

On 02 March 2009, applicants filed a "Second Renewed Request for Reconsideration of Confirmation of Incorporation by Reference and Second Renewed Request for Issuance of Corrected Search Report" together with a postcard directed to receipt by the USPTO of the Confirmation of Incorporation by Reference document.

DISCUSSION

Confirmation of Incorporation by Reference

The Decision on Petition dated 01 October 2008 indicated that despite applicants' statement that a separate Confirmation of Incorporation by Reference document was submitted 02 April 2008, no such document had been received. In response, applicants have now provided a legible copy of a postcard receipt specifically indicating a "Confirmation of Incorporation by Reference under Rule 20.7" and a "Certified Copy of Provisional Application No. 60/871,854," stamped as received by OIPE on APR 02 2008. Applicants have also provided "copies of the as-filed Confirmation by Incorporation by Reference," and a photocopy of the first page of the certified copy of provisional

application 60/871,854. The certified copy of the provisional application was received by the International Bureau on 24 July 2008 and is available on their web site, and the provisional application is available in the USPTO database. The Confirmation of Incorporation by Reference is considered as having been received by the USPTO on 02 April 2008.

In the confirmation document, applicants state that "[t]he sequences for SEQ ID NOs: 70-73 were set forth in the table appearing on page 41" of the provisional application and "respectfully request that the sequences for SEQ ID NOs: 70-73 be incorporated into the disclosure of this PCT application."

A Confirmation of Incorporation by Reference under PCT Rule 20.6 must include, *inter alia*: "(i) a sheet or sheets...embodying the part concerned;" and "(ii)...a copy of the earlier application as filed." While applicants have complied with item (ii) by providing a certified copy of the provisional application, applicants have not separately provided a sheet or sheets embodying the part concerned as required by item (i). PCT Rule 20.6 requires that a sheet or sheets embodying the missing part be provided with the confirmation so that such sheet or sheets can be directly incorporated into the international application. Here, however, applicants have requested that four individual sequences be incorporated into the disclosure of this PCT application. How or where in the international application these four individual sequences could or should be incorporated is not at all clear. Therefore, applicants' attempt to confirm incorporation by reference of SEQ ID NOs: 70-73 contained in the priority document does not meet the requirements of PCT Rules 4.18 and 20.6, and therefore, those sequences are not considered part of this international application.

Sequence Listing furnished in Response to the PCT/ISA/225

The Decision on Petition dated 01 October 2008 also indicated that "[t]his international application contained disclosure of SEQ. ID. NOs. 1-69 and 74-135; however, the sequence listing provided in response to the PCT/ISA/225 contained SEQ ID. NOs. 1-140." In response, applicants state that "in view of the discussion above regarding the filing of a Confirmation of Incorporation by Reference in compliance with the Rules, the sequences provided in the Sequence Listing submitted April 2, 2008, should be considered part of the international application."

As discussed above, applicants' attempt to confirm incorporation by reference of SEQ ID NOs: 70-73 contained in the priority document does not meet the requirements of PCT Rules 4.18 and 20.6, and therefore, those sequences are not considered part of this international application. It is also noted that neither the Confirmation of Incorporation by Reference document nor any other document submitted thus far, has addressed SEQ ID NOs 136-140, which are contained in the sequence listing purportedly provided in response to the PCT/ISA/225, and are not contained in this international application. Consequently, as concluded in the previous decision, "[b]ecause the provided sequence listing contained sequences that go beyond the disclosure of the international application as filed, neither the sequence listing in paper nor in computer readable form can be accepted under PCT Rule 13ter.1 for the purposes of international search..."

Finally, applicants "submit that a revised CRF was submitted on June 13, 2008, as evidenced by a copy of the date-stamped postcard listing the CRF, and a photocopy of the disk containing the CRF, which where included in Applicants' September 15, 2008, submission." As discussed above, however, the sequence listing contained sequences not disclosed in the international application as filed and as such, could not be accepted for the purposes of search under PCT Rule 13ter. Therefore, the issue as to whether or not the revised sequence listing was received by the ISA/US need not be resolved.

CONCLUSION

The Confirmation of Incorporation by Reference submitted 02 April 2008 does not comply with the requirements of PCT Rules 4.18 and 20.6, and therefore, no sequences have been incorporated into this international application from the priority document, U.S. Provisional Application No. 60/871,854.

Applicants' Second Renewed Request for Issuance of a Corrected Search Report filed 03 March 2008 is hereby **DISMISSED** without prejudice.

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10 JUL 2009

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In re Application of:	:	
NATIONAL TAIWAN UNIVERSITY	:	DECISION ON
PCT No.: PCT/US07/26125	:	
Int. Filing Date: 21 December 2007	:	PETITION UNDER
Priority Date: 26 December 2006	:	
Atty Docket No.: 9405.3-304	:	37 CFR 1.181
For: DISINTEGRIN VARIANTS AND	:	
PHARMACEUTICAL USES THEREOF	:	

This decision is in response to applicants': Combined Request for: a) Incorporation by Reference SEQ ID Nos 70-73; b) Insertion of Sequence Identifiers for Sequences with SEQ ID Nos 136-140; and c) Issuance of Corrected Search Report and Written Opinion, filed 07 May 2009.

BACKGROUND

On 21 December 2007, applicants filed international application PCT/US2007/26125. Although the description contained disclosure of nucleotide and amino acid sequences, numbered as SEQ. ID. NOs. 1-69 and 74-135, no sequence listing was filed as a separate part of the description or in computer readable form.

On 03 March 2008, the USPTO issued an "Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" (PCT/ISA/225). On 02 April 2008, applicants filed a "Response to Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" indicating enclosure of: a sequence listing, as a paper copy and in computer readable form (containing SEQ. ID. NOs. 1-140); and the required statement. The statement indicated that it "is filed concurrently with a Confirmation of Incorporation by Reference to incorporate sequences that were disclosed in the priority document of the PCT application (Provisional Application No. 60/871,854);" however, no separate Confirmation of Incorporation by Reference document was received.

On 27 May 2008, the USPTO issued a "Communication in Cases for Which No Other Form is Applicable" (PCT/RO/132), indicating that the sequence listing would be accepted under PCT Rule 13ter.1 for search purposes only, but that the computer

readable form (CRF) was defective because the wrong file was saved (i.e. invention title, docket number, or applicant(s) do not match those in the official application) and that the enclosed sequence listing was not included in the referenced priority application.

On 08 August 2008, the USPTO issued the "International Search Report and Written Opinion of the International Searching Authority" (PCT/ISA/210/237). Those documents indicated that no report was established for claim numbers 4-6, 17-19, 26, 27, 35-50, and 73-88 since no correct sequence listing was submitted in response to the PCT/ISA/225. On 16 September 2008, applicants filed a request for issuance of a corrected search report that considers the timely submitted sequence listing and CRF.

On 01 October 2008, the USPTO dismissed without prejudice applicants' request for issuance of a corrected search report that considers the timely submitted sequence listing and CRF, indicating that the request for confirmation of incorporation by reference submitted 02 April 2008 did not comply with the requirements of PCT Rules 4.18 and 20.6, and therefore, no sequences were incorporated from the priority document.

On 10 November 2008, applicant filed a "Request for Reconsideration of Confirmation of Incorporation by Reference and Renewed Request for Issuance of Corrected Search Report." Applicant was notified by telephone that the postcard, purportedly demonstrating receipt by the USPTO of the Confirmation of Incorporation by Reference document, was illegible.

On 28 February 2009, applicants filed a "Renewed Request for Reconsideration of Confirmation of Incorporation by Reference and Second Renewed Request for Issuance of Corrected Search Report," purportedly providing a postcard demonstrating receipt of the Confirmation of Incorporation by Reference document. Applicants were again notified by telephone that the postcards received were directed to receipt of the sequence listing, not the Confirmation of Incorporation by Reference document.

On 02 March 2009, applicants filed a "Second Renewed Request for Reconsideration of Confirmation of Incorporation by Reference and Second Renewed Request for Issuance of Corrected Search Report" together with a postcard directed to receipt by the USPTO of the Confirmation of Incorporation by Reference document.

On 03 April 2009, the USPTO dismissed without prejudice applicants' renewed requests for incorporation by reference, indicating that the now complete request for confirmation of incorporation by reference submitted 02 April 2008 did not comply with the requirements of PCT Rules 4.18 and 20.6, and therefore, no sequences were incorporated from the priority document.

On 07 May 2009, applicants filed a Combined Request for: a) Incorporation by Reference SEQ ID Nos 70-73; b) Insertion of Sequence Identifiers for Sequences with SEQ ID Nos 136-140; and c) Issuance of Corrected Search Report and Written Opinion.

DISCUSSION

Request to Incorporate by Reference SEQ ID NOs 70-73

The Decision on Petition mailed 01 October 2008 indicated that the PCT/ISA/225 invitation to furnish a sequence listing, mailed 03 March 2008, was considered to be an invitation under PCT Rule 20.5(a). PCT Rule 20.7 states that the time limit for submission of a written notice of confirmation of incorporation by reference complying with the requirements of PCT Rule 20.6 is two months from the date of the invitation. Therefore, the time limit in this application for submission of a written notice of confirmation of incorporation by reference expired on 05 May 2008 (03 May 2008 being a Saturday).

The Decision on Petition mailed 03 April 2009 indicated that while applicants' confirmation of incorporation by reference document was considered to have been timely received by the USPTO on 02 April 2008, the document nevertheless did not meet the requirements of PCT Rules 4.18 and 20.6, since it was not clear how or where in the international application four individual sequences could or should be incorporated, and therefore, no sequences were incorporated. The most recent request to incorporate by reference SEQ ID NOs 70-73, filed 07 May 2009, attempts to overcome the previous deficiency by supplying a new page 30 of the international application, wherein SEQ ID NOs 70-73 are incorporated into Table 1. Unfortunately, this request was filed more than one year after the expiration of the time limit under PCT Rule 20.7, and the PCT Regulations do not provide an opportunity to rectify a previous timely-filed, but deficient request. Therefore, SEQ ID NOs 70-73 cannot be incorporated by reference and are not considered part of this international application.

Request to Insert Sequence Identifiers for Sequences with SEQ ID NOs 136-140

Applicants request that the USPTO insert sequence identifiers into the international application, since the sequences were present at the time of filing, but due to an oversight, they lacked sequence identifiers. Chapter I of the Patent Cooperation Treaty does not provide an opportunity to amend the description of the international application; the Treaty provides one opportunity to amend the claims only, after receipt of the international search report, under PCT Article 19. The only provision for rectification of obvious mistakes in an international application is provided for by PCT Rule 91. Such rectification should only be authorized if, and only if, "it is obvious to the competent authority that...something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification." While it may be obvious to the ISA/US that sequence identifiers are missing, it is certainly not clear that nothing else could have been intended than proposed sequence identifiers 136-140. Therefore, the proposed sequence identifiers cannot be inserted into the international application during Chapter I for the purpose of search.

Request to Establish Corrected International Search Report and Written Opinion

Applicant requests establishment of a Corrected International Search Report and Written Opinion of the International Searching Authority either in view of a Sequence

Listing containing SEQ ID NOs 1-140, or in view of the Alternative Sequence Listing containing SEQ ID NOs 1-135. As indicated above, the newly filed request for incorporation by reference is not timely, consequently, SEQ ID NOs 70-73 cannot be incorporated by reference and are not considered part of this international application. A Sequence Listing that does not go beyond the disclosure in the international application as filed was not timely filed in response to the PCT/ISA/225; therefore, no Corrected International Search Report and Written Opinion of the International Searching Authority will be issued.

CONCLUSION

The Confirmation of Incorporation by Reference submitted 02 April 2008 does not comply with the requirements of PCT Rules 4.18 and 20.6, and therefore, no sequences have been incorporated into this international application from the priority document, U.S. Provisional Application No. 60/871,854.

Chapter I of the Patent Cooperation Treaty does not provide for amendment of the description of an international application and the requested insertion does not meet the requirements for rectification under PCT Rule 91; therefore, the proposed sequence identifiers cannot be inserted into the international application during Chapter I for the purpose of search.

A Sequence Listing that does not go beyond the disclosure in the international application as filed was not timely filed in response to the PCT/ISA/225; therefore, no Corrected International Search Report and Written Opinion of the International Searching Authority will be issued.

Applicants' Combined Request for: a) Incorporation by Reference SEQ ID Nos 70-73; b) Insertion of Sequence Identifiers for Sequences with SEQ ID Nos 136-140; and c) Issuance of Corrected Search Report and Written Opinion, filed 07 May 2009is hereby **DISMISSED** without prejudice.

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

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In re Application of	:	
FLORES	:	DECISION
PCT No.: PCT/US07/26166	:	
Int. Filing Date: 20 December 2007	:	ON
Claimed Priority Date: 20 December 2006	:	
Attorney's Docket No.: 4046-PCT	:	PETITION
For: Method And Apparatus For Ball Kicking Practice	:	

This is in response to applicants' petition under 37 CFR 1.10(c) filed on 09 January 2008.

BACKGROUND

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

On 28 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 21 December 2007 was mailed to applicants. Also mailed on even date was an Invitation To Correct Priority Claim... (Form PCT/RO/110).

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 20 December 2007, rather than 21 December 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).

The petition complies with 37 CFR 1.10(c)(2) because an Express Mail mailing label number, EV950301467US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application.

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 EV950301467US, which shows a "date-in" of "12 20 07" as well as a USPS plug stamp dated "DEC 20 2007." This date of deposit is corroborated by a copy of a USPS receipt showing that postage was paid for the Express Mail mailing label in question on 20 December 2007, and by a copy of the USPS "Track & Confirm" page showing the "Acceptance" of the parcel by the USPS on 20 December 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. Accordingly, 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 28 January 2008 are hereby **VACATED**. No fee is required for this petition.

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 **20 December 2007** is being issued.

/George Dombroske/
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cc: International Bureau of WIPO

16 JAN 2009

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In re Application of :
CARRIER CORP. :
PCT No.: PCT/US07/26363 :
Int. Filing Date: 27 December 2007 : DECISION ON REQUEST
Attorney Docket No.: PA0003692W/**U75.500-91**KL :
For: CONTROL CIRCUIT FOR HVAC AND :
REFRIGERATION :

This is a decision on the communication filed 24 November 2008 with the United States Receiving Office (RO/US) in the above referenced application. Applicant requests that international application PCT/US07/26363 be withdrawn.

BACKGROUND

On 27 December 2007, applicant submitted a PCT Request along a fee calculation sheet, description and claims. The application was assigned application number PCT/US07/26363. The Request was not signed by applicant/inventors Harshad S. Sane, Scott A. Bortoff, Junqiang Fan, Eric Royet, Olivier Josserand and Stephane Leproult. It was signed by Austen Zuege as named agent. Fees were paid in this application..

On 24 November 2008, applicant filed a request for withdrawal of PCT Application PCT/US06/26363[1] in accordance with PCT Rule 90bis.1 with the International Bureau with a copy to the United States Receiving Office. The request was not made on condition that publication of the application be prevented.

DISCUSSION

At the outset it is noted that the request for withdrawal of the international application is ineffective as it is misdirected to an incorrect PCT application number. It appears from applicant name, agent name and agent reference number that applicant wished to indicate application no. PCT/US07/26363.

Furthermore, with regard to applicant's request to withdraw application PCT/US07/26363, applicant may withdraw the international application by a notice addressed to the International Bureau or to the Receiving Office. *See* PCT Rule 90*bis*.1. However, the notice

[1] Applicant's request incorrectly referenced PCT/US06/26363. A review of the USPTO records reveals that the name of applicant, agent and agent reference number identified on the request to withdraw do not match PCT application number PCT/US06/26363.

must be signed by all the applicants. *See* PCT Rule 90.*bis*.5. The notice may be signed by the agent appointed by all applicants to represent him before the Receiving Office or International Bureau.[2] Here, all applicants did not sign the request to withdraw PCT/US07/26363 and there is no Power of Attorney appointing an agent on behalf of the applicants in this application file. Even where one of the applicants is considered the common representative under Rule 90.2(b), the notice of withdrawal must be signed by all the applicants.

The request to withdraw PCT/US07/26363 is signed by Austen Zuege. However, there is no Power of Attorney in the file appointing Mr. Zuege as the agent on behalf of all the applicants, in compliance with PCT Rule 90.1. Such Power of Attorney must be signed by all applicants. Without a Power of Attorney on behalf of all applicants, all of the applicants are required to sign the withdrawal of international application PCT/US07/26363.

Pursuant to PCT Rule 90bis.5, without the signatures of applicant/inventors, the withdrawal of the international application no. PCT/US07/26363 is REFUSED because the request to withdraw is not signed by all of the applicants as required..

DECISION

As construed above, the petition to withdraw the international application PCT/US07/26363 is **DISMISSED WITHOUT PREJUDICE**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

[2] Where an Office or Authority has waived the requirement that a separate power of attorney, or a copy of a general power of attorney, has to be furnished, the waiver does not apply in respect of any notice of withdrawal.

2 8 AUG 2008

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Alexandria, VA 22313-1450
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Bo-In Lin
13445 Manoli Drive
Los Altos Hills, CA 94022

In re Application of:	:	
OLYMPUS CORPORATION	:	DECISION
PCT Application No.: PCT/US2007/026372	:	
Int. Filing Date: 26 December 2007	:	UNDER
Priority Date: 26 December 2006	:	
Atty Docket No.: SQ-0673	:	
For: METHOD FOR ALIGNING DIE TO SUBSTRATE	:	37 CFR § 1.10 (c)
	:	

This decision is in response to applicant's request to correct the filing date filed 04 August 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 03 March 2008, the present application was accorded an international filing date of 27 December 2007 by the United States Receiving Office (RO/US).

On 04 August 2008, applicant filed the present petition requesting the international filing date be corrected to 26 December 2007. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 589787341US.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be corrected to 26 December 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 26 December 2007. Accordingly, pursuant to 37 CFR § 1.10(c), the international filing date is appropriately corrected 26 December 2007.

CONCLUSION

Applicant's petition requesting the international filing date be corrected to 26 December 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 26 December 2007 will be mailed with this decision. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 03 March 2008 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

25 AUG 2009

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MICHAEL D. LAKE
FACTOR & LAKE LTD.
1327 W. WASHINGTON BLVD., SUITE
5G/H
CHICAGO IL ILLINOIS 60607

In re Application of: Rytec Corporation	:	DECISION
PCT Application No.: PCT/US2007/026429	:	
Int. Filing Date: 27 December 2007	:	
Priority Date: 27 December 2006	:	ON
Atty Docket No.: RYT-061316PC	:	
For: High Speed Door Assembly	:	37 CFR 1.181

This decision is issued in response to the "Petition Under 37 CFR 1.181 to Republish International Application No. PCT/US2007/0264298" filed 23 June 2009. No petition fee is required.

BACKGROUND

On 27 December 2007, applicant filed international application PCT/US01/20862 which claimed a priority date of 27 December 2006. The filing included nine (9) of drawings. Six (6) sheets of drawings number 1/6-6/6 and three (3) sheets un-numbered, with figs. 11-16.

On 05 May 2008, applicant filed 9 pages of the substitute drawings to the United States Receiving Office (RO/US).

On 23 August 2009, applicant filed the petition considered herein. The petition asserts that the original application materials filed 27 December 2007 included nine (9) pages of drawings, as indicated on the Request as filed. The petition is accompanied by a copy of the drawing and a copy of a return postcard that specifically identifies the present application, itemizes (among other materials) 9 sheets of drawings, and bears a PCT/PTO receipt stamp dated 29 June 2001.

DISCUSSION

The original drawings filed on 27 December 2007 have been found, and the substitute drawings filed on 05 May 2008 have been received. However, the original drawings are not identical to the substitute drawings. Therefore the substitute drawings filed on 05 May 2008 is treated as a request for rectification.

CONCLUSION

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

This application is being returned to the RO/US for further processing including: (1) notifying the International Bureau of the inclusion of the nine (9) sheets of drawings as part of the application as filed on 27 December 2007.

Peng Ke
Detailee
PCT Legal Administration
Telephone (571)272-6094

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Administration

29 JUN 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL D. LAKE
FACTOR & LAKE. LTD.
1327 W. WASHINGTON BLVD., SUITE 5G/H
CHICAGO IL 60607

In re Application of	:	
RYTEC CORPORATION	:	
PCT No.: PCT/US2007/026429	:	DECISION
Int. Filing Date: 27 December 2007	:	
Priority Date: 27 December 2006	:	
Attorney Docket No.: RYT-061316PC	:	
For: HIGH SPEED DOOR ASSEMBLY	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.14 TO INSPECT AND COPY FIG. 16 OF APPLICATION NO. PCT/US2007/026429" filed 14 October 2009.

BACKGROUND

On 27 December 2007, 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/US07/26429. The filing included nine (9) sheets of drawings: six (6) sheets of drawings numbered 1/6-6/6 and three (3) sheets un-numbered, containing Figs. 11-16.

On 05 May 2008, applicant filed 9 pages of substitute drawings to the United States Receiving Office (RO/US).

On 23 June 2009, applicant filed a petition under 37 CFR 1.181 to republish the international application with Figs. 11-16 rather than only drawings sheets 1/6-6/6.

On 25 August 2009, a decision was mailed dismissing applicant's petition under 37 CFR 1.181 as moot. Specifically, it was noted that the original drawings filed 27 December 2007 had been found and that the International Bureau would be notified of the inclusion of the nine (9) sheets of drawings filed as part of the application on 27 December 2007. The decision also noted that the substitute drawings filed 05 May 2008 were not identical to the drawings filed 27 December 2007 and thus the drawings filed 05 May 2008 would be treated as a request for rectification.

On 26 August 2009, the RO/US mailed a NOTIFICATION OF DECISION CONCERNING REQUEST FOR RECTIFICATION (Form PCT/ISA/117) indicating, inter alia, that the request for rectification of the drawings was refused because the difference between Figs. 11-16 filed 27 December 2007 and Figs. 11-16 filed 05 May 2008 were not obvious as the 05 May 2008 Figs. 11-16 were completely redrawn with new elements added.

On 14 October 2009, applicant filed the instant petition to inspect.

DISCUSSION

The petition to inspect requests that an agent of applicant's counsel be permitted to inspect and copy (photograph) Fig. 16 filed 27 December 2007. The petition alleges that the scan of Fig. 16 was very poor in quality and nearly invisible in the electronic file wrapper. Applicant contacted Mr. Leonard Smith of the Office of PCT Legal Administration. Mr. Smith informed applicant that he would have Figs. 11-16 filed 27 December 2007 re-scanned in an effort to produce a better quality scan. The petition urges that the re-scanning resulted in a nearly identical poor quality scan, again leaving Fig. 16 nearly invisible.

37 CFR 1.14(b) states that "[w]here a copy of the application file or access to the application may be made available pursuant to this section, the Office may at its discretion provide access to only an electronic copy of the specification, drawings, and file contents of the application." The sheet of the paper drawings filed 27 December 2007 containing Fig. 16 were inspected by a USPTO employee in the Office of Data Management. The quality of the original paper drawings is virtually the same as the drawings in the electronic file. Because the relevant original paper drawings show little, if anything, more than what the electronic file shows, access to the application papers is limited to the electronic file.

Applicant may consider filing a petition under 37 CFR 1.183 to inspect the originally filed drawings at a location to be determined by the USPTO. Such a petition would need to explain why the instant situation is an extraordinary situation. However, it is noted that the suggestion to file such a petition should not be taken as an indication that it would be granted.

The petition further states that applicant "will be satisfied in copying the document in any manner which results in a clearly visible FIG 16, including but not limited to, photo copying, tracing, darkening the lines of FIG 16 for photocopying, or taking a photograph of FIG. 16 for re-drawing the FIG." It is noted that tracing could easily result in a FIG. different than that of the originally filed FIG. Darkening the lines would almost certainly result in a FIG. different than that of the originally filed FIG. It is highly unlikely that such measures would be allowed under any circumstances.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.14 is **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.

/Daniel Stemmer/

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

27 AUG 2008

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KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON DC 20007

In re Application of	: DECISION ON
JOSEPH WILSON	:
PCT No.: PCT/US07/26502	: PETITION
Int. Filing Date: 19 September 2007	:
Priority Date: 19 September 2006	: UNDER 37 CFR 1.181
Attorney Docket No.: 754820-0630	:
For: SYSTEM AND METHOD FOR PRESERVING CONSUMER CHOICE	:

This decision is in response to applicant's "Petition To Accept PCT Application under 37 CFR 1.182 " filed in the United States Receiving Office (RO/US) on 03 July 2008. For the reasons set forth below, the petition will be considered a petition under 37 CFR 1.181 and no petition fee will be charged.

BACKGROUND

On 19 September 2007, applicants filed an international application claiming priority to a United States patent application 11/580,023 filed on 19 September 2006 along with a PCT Request form, Fee Calculation Sheet indicating total fees payable of $1722, a specification, claims, drawings and abstract.

On 03 July 2008, applicants submitted the instant petition under 37 CFR 1.182. It requests that the Office treat the international application as having been submitted on 19 September 2007.

DISCUSSION

Applicants claim that an international application along with the PCT Request was filed on 19 September 2007. Applicant requests that the Director establish a filing date of 19 September 2007 and reconstruct the file for the international application. Applicant provided a copy of the papers filed on 19 September 2007 along with a statement of facts concerning the filing.

A review of the application file for U.S. application 11/580,023 reveals that the request for an international application is located therein. A review of applicant's communication which accompanied the filing indicates that it referenced U.S. application 11/580,023 and thus, the United States Patent and Trademark Office (USPTO) associated the 19 September 2007 papers with that file.

The international application along with the PCT Request is accepted as filed; the application papers filed 19 September 2007 will be treated as an international application,

accorded PCT application number of PCT/US07/26502 with a filing date of 19 September 2007.

DECISION

Applicants' petition under 37 CFR 1.181 is **GRANTED** .

This application was being forwarded to the RO/US for further processing. The Receiving Office will issue the appropriate communications to applicant.

/Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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UNITED STATES PATENT and TRADEMARK OFFICE

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Marlin Smith
660 North Central Expressway, #230
Plano, Texas 75074

In re Application of	:	DECISION ON
HALLIBURTON ENERGY SERVICES, INC.	:	
PCT No.: PCT/US2007/060001	:	
Int. Filing Date: 01 January 2007	:	PETITION UNDER
Priority Date: 17 January 2006	:	
Attorney's Docket No.: 015702WO	:	
For: WELL CONTROL SYSTEMS ... METHODS	:	37 CFR 1.181

This decision is in response to "RESPONSE TO INVITATION TO CORRECT DEFECTS' filed on 05 march 2007, which is being treated as a petition under 37 CFR 1.181, requesting that the above international application was properly filed on 01 January 2007.

BACKGROUND

On 01 January 2007, this international application was allegedly filed in the United States Receiving Office (RO/US), claiming an earliest priority date of 17 January 2006.

On 28 February 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) stating that the international filing date is 21 February 2007.

On 05 March 2007, petitioner filed the present petition. The petition states that based on the electronic Acknowledgement Receipt, the filing date of this international application is 01 January 2007 because that is the date the requirements under 37 CFR 1.431(b) were met.

DISCUSSION

The electronic Acknowledgement Receipt indicates that on 01 January 2007, the following items, *inter alia,* were received at the USPTO:

(1)	Request	(4 pages)
(2)	Specification	(41 pages)
(3)	Claims	(15 pages)
(4)	Abstract	(1 page)
(5)	Drawings	(9 pages)

The USPTO electronic Acknowledgement Receipt lists the above items as received on 01 January 2007, which includes the items under PCT Article 11 and 37 CFR 1.431(b) to accord the above international application an international filing date.

Accordingly, the date of receipt for the above international application is 01 January 2007.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** and the date of receipt of the above international application at the USPTO is **01 January 2007**. Form PCT/RO/105 mailed on 28 February 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 **01 January 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

UNITED STATES PATENT AND TRADEMARK OFFICE

0 2 JUN 2008

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J. Randall Beckers
Staas & Halsey, LLP
1201 New York Avenue, NW
Suite 700
Washington, DC 20001

In re Application of: CHACHA SEARCH, INC.	:	DECISION
PCT Application No.: PCT/US2007/060472	:	
Int. Filing Date: 11 January 2007	:	UNDER
Priority Date: 23 January 2006	:	
Atty Docket No.: 1918.1001PCT	:	
For: A SCALABLE SEARCH SYSTEM USING HUMAN SEARCHERS	:	37 CFR 1.181

This decision is in response to applicant's "RESPONSE FOR NEW INTERNATIONAL SEARCH REPORT" filed 07 April 2008, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 07 February 2008, the ISA/US issued International Search Report (form PCT/ISA/210) and Written Opinion of the ISA (form PCT/ISA/237) indicating thereon the date of 23 January 2007 as the earliest priority date.

On 07 April 2008, applicant filed the present petition requesting a new International Search Report to be issued with the correct priority date of 23 January 2006. The petition was accompanied by, *inter alia*, a copy of Notification Relating to Priority Claim (form PCT/IB/318) showing the corrected priority date of 23 January 2006.

DISCUSSION

A review of the file reveals that the form PCT/IB/318 showing the corrected priority date of 23 January 2006 was transmitted from the International Bureau and received by the ISA/US prior to the establishment of the International Search Report and Written Opinion of the ISA. Consequently, the International Search Report and Written Opinion of the ISA should have contained the correct priority date of 23 January 2006 thereon.

CONCLUSION

For the reasons given above, the applicant's petition under 37 CFR 1.181 is **GRANTED**.

Corrected International Search Report (form PCT/ISA/210) and Written Opinion of the ISA (form PCT/ISA/237) are 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 International Search Report (form PCT/ISA/210) and Written Opinion of the ISA (form PCT/ISA/237)

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James J. DeCarlo
GREENBERG TRAURIG, LLP
Metlife Building
200 Park Avenue
New York, NY 10166

In re Application of :
YAHOO, INC. :
PCT No.: PCT/US2007/060525 : **DECISION**
Int. Filing Date: 12 January 2007 :
Priority Date: 13 January 2006 : **ON PETITION UNDER**
Docket No.: 85804-033006 :
For: METHOD AND SYSTEM FOR ONLINE : **37 CFR 1.182**
REMIXING OF DIGITAL MULTIMEDIA :

This decision is in response to applicant's "Request to Amend the International Searching Authority Pursuant to 37 C.F.R. 1.182" filed on 20 April 2007.

BACKGROUND

On 12 January 2007, applicant filed the above-identified international application with the RO/US. In Box No. VII of the PCT Request, *International Searching Authority*, applicant indicated the choice of the United States International Searching Authority (ISA/US).

On 20 April 2007, applicant filed the subject petition requesting to change the choice of International Searching Authority to the Korean Patent Office which was accompanied by, *inter alia*, authorization to charge the search fee of $232.00 and petition fee of $400.00 to counsel's deposit account N. 50-2775.

DISCUSSION

Applicant requests to change the International Searching Authority (ISA) to the Korean Patent Office. As indicated above, applicant indicated that the US was the ISA in the Request.

A review of the above-identified international application shows that the search copy has been transmitted to the ISA/US and the search has commenced.

As such, applicant's request to change the ISA cannot be granted.

DECISION

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

The ISA for the subject application remains the United States.

This application is being returned to the ISA/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 1 DEC 2007

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JAMES J. DECARLO
GREENBERG TRAURIG, LLP
METLIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

In re Application of	:	
YAHOO! Inc.	:	
PCT App. No.: PCT/US07/60530	:	DECISION ON
Int'l Filing Date: 12 January 2007	:	
Priority Date: 13 January 2006	:	PETITION
Attorney Docket No.: 85804-033008	:	
For: METHOD AND SYSTEM FOR RECORDING EDITS TO MEDIA CONTENT	:	UNDER 37 CFR 1.182

This decision is in response to applicant's Petition Under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 20 April 2007.

BACKGROUND

On 12 January 2007, applicant filed *inter alia* a request, a fee calculation sheet and a description.

On 20 April 2007, applicant filed the instant petition to change the international searching authority.

DISCUSSION

Work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

The $400 petition fee will be charged to deposit account no. 50-2775, as authorized.

Additionally, applicant has requested that the Office remove Steven Waterhouse as applicant and inventor from this application. However, applicant has not furnished a power of attorney from Mr. Waterhouse or a request from Mr. Waterhouse to remove him as applicant and inventor. The applicant's consent is necessary for a change.

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 referred to ISA/US for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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0 8 NOV 2007

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GREENBERG TRAURIG LLP
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New York, NY 10166

In re Application of	:	DECISION ON
Cunningham et al	:	
PCT No.: PCT/US07/60531	:	
Int. Filing Date: 12 January 2007	:	PETITION
Priority Date: 13 January 2006	:	
Attorney's Docket No.: 85804-033009	:	
For: METHOD AND SYSTEM...	:	
WITH MEDIA CONTENT	:	UNDER 37 CFR 1.182

This decision is in response to the "COMMUNICATION FILING AMENDED REQUEST TO CORRECT IDENTITY OF INVENTORS ....IN THE REQUEST PURSUANT TO 37 CFR 1.182" filed on 20 April 2007. Applicants' are requesting to change the searching authority for the above-identified application to the Korean Intellectual Patent Office (ISA/KIPO), and to remove Steven Waterhouse from the Request. Deposit Account No. 502775 will be charged the required $400 petition fee as authorized.

INTERNATIONAL SEARCHING AUTHORITY

BACKGROUND

On 12 January 2007, applicant filed international application PCT/US07/60531. 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.

DISCUSSION

The records of the United States Receiving Office (RO/US) show that processing of the search copy of the international application has begun. Since the RO/US has transmitted the search copy of the international application to the ISA/US the ISA/US has started the searching process, the change of International Searching Authority cannot be effectuated.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

REQUEST TO REMOVE INVENTOR

Applicants request that Steven Waterhouse be removed as an inventor in the Request must be done in accordance with PCT Rule 92*bis* prior to the filing national stage application. This request is filed with the International Bureau.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

This application is being returned to the United States Receiving Office (RO/US) for continued processing.

Rafael Bacares
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11/08/2007 SBASHEIR 00000002 502775 PCT/US07/60531
Sale Ref: 00000003 DA#: 502775 PCT/US07/60531
01 FC:1462 400.00 DA

0 8 DEC 2008

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Lisa U. Jaklitsch
International Business Machines Corporation
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Hopewell Junction, NY 12533

In re Application of
INTERNATIONAL BUSINESS MACHINES CORPORATION
PCT No.: PCT/US2007/060615
Int. Filing Date: 17 January 2007
Priority Date: 18 January 2006
Docket No.: FIS920050162
For: METHOD FOR FABRICATING LAST LEVEL COPPER-TO-C4 CONNECTION WITH INTERFACIAL CAP STRUCTURE

DECISION

This decision is in response to the papers filed with the United States Receiving Office (RO/US) on 15 August 2008 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 17 January 2007, applicant filed PCT/US2007/060615 with the RO/US using the USPTO EFS-Web system.

On 06 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 of the subject application is 16 January 2007.

On 15 August 2008, applicant filed the subject petition which was accompanied by, *inter alia*, a copy of the "Electronic Acknowledgment Receipt" received for the initial filing.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be amended to 17 January 2007. Applicant provided a copy of the "Electronic Acknowledgment Receipt" from the USPTO noting that the USPTO received the complete submission at 14:16:05 Eastern Time on 17 January 2007.

A review of RO/US records verify that the above-captioned application was filed on 17 January 2007, not 16 January 2007.

Accordingly, it is clear that the international filing date listed on the Form PCT/RO/105 mailed 06 March 2007 was incorrect.

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.181 is **GRANTED**.

The Form PCT/RO/105 mailed 06 March 2007 is hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an international filing date of **17 January 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
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14 AUG 2007

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

In re Application of :
NEXUS BIOSYSTEMS, INC. et al. :
PCT No.: PCT/US07/60936 :
Int. Filing Date: 23 January 2007 :
Priority Date: 23 January 2006 : DECISION
Attorney's Docket No.: PCT013 (113452) :
For: Automated System For Storing, Retrieving And Managing Samples :

This decision is in response to applicants' "Response To Notification Of Non-Inclusion Of Drawings With International Application," filed on 28 March 2007, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 23 January 2007, applicant filed PCT/US07/60936 claiming an earlier priority date of 23 January 2006. Applicant designated the United States Patent and Trademark Office as the Receiving Office (RO/US) and the International Searching Authority (ISA/US).

On 27 February 2007, the United States Receiving Office (US/RO) mailed a Notification Concerning Payment of Fees (Form PCT/RO/102) indicating that application fees of $2,484 were due.

On 12 March 2007, the United States Receiving Office (US/RO) mailed the following: Notification of the International Application Number and International Filing Date (Form PCT/RO/105); Communication In Cases For Which No Other Form Is Applicable (Form PCT/RO/132); and Notification of Non-Inclusion of Drawings (Form PCT/RO/107).

On 15 March 2007, applicant filed the required fees of $2,484.

On 28 March 2008, applicant filed a "Response To Notification Of Non-Inclusion Of Drawings With International Application" including, a full set of drawing sheets, pages 1-28.

On 04 April 2007, applicant filed the instant "Request For Refund Of PCT Request Filing Fees," a copy of the "Notice Of Withdrawal" (Form PCT/IB/372) that applicant filed with the International Bureau on this same date and, a General Power of Attorney.

DISCUSSION

Applicant states that in response to the "Notification of Non-Inclusion of Drawings (Form PCT/RO/107)," mailed 12 March 2007, a full set of drawing sheets, pages 1-28, has been provided to the United States Receiving Office (US/RO). Applicant requests that pages 1-28 of drawing sheets be included with the application as filed and as such be considered as "timely filed for the earliest claimed priority date" because, "the identical drawings were filed in the U.S. Patent and Trademark Office on the same filing date (23 January 2007) in corresponding U.S. Application No. 11/626,359."

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 pages 1-28 of drawing sheets, have 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 drawings were not filed within the prescribed time limit (30 days from the international filing date of 23 January 2007), pages 1-28 of drawing sheets are 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
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15 OCT 2008

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In re Application of :
PIPEX, INC. :
PCT No.: PCT/US07/61082 :
International Filing Date: 25 January 2007 :
Priority Date: 25 January 2006 : DECISION ON PETITION
Attorney's Docket No.: PIPEX07.01PC :
For: DROPLET COLLECTION DEVICES AND METHODS TO DETECT AND CONTROL AIRBORNE COMMUNICABLE DISEASES UTILIZING RFID :

This decision is issued in response to applicant's "Request to Correction"of International Filing Date filed 20 August 2008 to accord an international filing date of 25 January 2007 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 30 January 2007 to the above-identified international application.

On 12 March 2008, the United Receiving Office mailed Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) which identified the international filing date as 30 January 2007.

On 20 August 2008, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 25 January 2007.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 25 January 2007. 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 25 January 2007 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 25 January 2007 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 25 January 2007, 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 March 2008 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 25 January 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 25 January 2007; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
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Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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

2 9 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIP H. BURRUS, IV
460 GRANT STREET
ATLANTA, GA 30312

In re Application of :
PURPOSE INTELLECTUAL PROPERTY :
MANAGEMENT II, INC. :
PCT Application No.: PCT/US2007/061308 :
Int. Filing Date: 30 January 2007 : DECISION
Priority Date Claimed: 02 May 2006 :
Attorney Docket No.: BPCCR11BSPCT :
For: METHOD AND SYSTEM FOR ACCOUNT :
VERIFICATION :

This is in response to applicant's "Petition to Extract File" filed 27 September 2007, which is being treated under 37 CFR 1.182.

BACKGROUND

On 30 January 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO.

On 26 July 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103).

On 27 September 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the description, claims, abstract, and drawings in PDF format were contained within a ZIP file which was uploaded via EFS-Web on 30 January 2007. The petition asserts that applicant had the option of attaching files as individual files or as a single multi-part file in accordance with EFS-Web FAQ p520efs095. However, EFS-Web FAQ p520efs095 clearly refers to PDF files and not PCT-EASY ZIP files. For example, the description, claims, and drawings may be submitted either as three individual PDF files or as one PDF file. Furthermore, EFS-Web guidelines specify that only PDF, ASCII text, and PCT-EASY ZIP files may be uploaded. See EFS-Web FAQ p242efsw020. Additional documents must not be added to the

PCT EASY ZIP file. See "Filing a New International Application Under the Patent Cooperation Treaty (PCT)", http://www.uspto.gov/ebc/portal/efs/dct_pct_file_new_tutorial.pdf, page 1.

Because the 30 January 2007 submission did not fully comply with EFS-Web guidelines, a waiver of the petition fee is not indicated in the present case. However, the description, claims, abstract, and drawings have been successfully extracted. The requisite $400.00 petition fee will be charged to Deposit Account No. 50-3608 as authorized in the petition.

CONCLUSION

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

The Invitation to Correct the Purported International Application (Form PCT/RO/103) mailed 27 July 2007 is hereby VACATED.

The description, claims, drawings, and power of attorney are accorded a receipt date of 30 January 2007.

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).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

2 4 MAR 2008

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STEVEN C. SEREBOFF
PORTABLE SOUND LABORATORIES, INC.
20123 NORDHOF STREET
CHATSWORTH CA 91311

In re Application of	:	
Portable Sound Laboratories, Inc.	:	
PCT No.: PCT/US07/61576	:	
Int. Filing Date: 02 February 2007	:	DECISION
Priority Date: 12 September 2006	:	
Attorney's Docket No.: P009P06652WO	:	
For: Case	:	

This international application is before the Office of PCT Legal Administration for consideration of issues concerning applicant's qualification as a U.S. resident or national.

BACKGROUND

Applicants filed this purported international application with the United States receiving Office on 02 February 2007.

On 10 January 2008, a Notification Of Transmittal Of Purported International Application To The International Bureau As Receiving Office And Invitation To Pay Fee (Form PCT/RO/151) was mailed to applicant, indicating that "the international application is not in a language accepted by this receiving Office..."

On 16 January 2008, an Invitation To Correct The Purported International Application (Form PCT/RO/103) was mailed to applicant, indicating that the "applicant obviously lacks for reasons of residence and nationality the right to file an international application with this receiving Office..." Also mailed on same date was a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) reflecting an international filing date of 02 February 2007.

On 05 March 2008, another Notification Of Transmittal Of Purported International Application To The International Bureau As Receiving Office And Invitation To Pay Fee (Form PCT/RO/151) was mailed to applicant, indicating that "this receiving Office is not competent, on account of nationality and residence of the applicant, to receive the international application."

DISCUSSION

Review of the application file reveals that, on 02 February 2007, applicants filed *inter alia* a PCT Request (Form PCT/RO/101) which nominated PORTABLE SOUND LABORATORIES, INC. as "applicant only" and LEE, Joseph Onyuen as "applicant and

inventor." The nationality and residence of both applicants were indicated to be "US." Therefore, this international application satisfied the requirements of PCT Rule 19.1 with respect to the United States receiving Office. As such, transmittal of the international application to the International Bureau as receiving Office under PCT Rule 19.4 would not have been appropriate in this case. Accordingly, the Notification Of Transmittal Of Purported International Application To The International Bureau As Receiving Office And Invitation To Pay Fee (Form PCT/RO/151) mailed on 05 March 2008 and Invitation To Correct The Purported International Application (Form PCT/RO/103) mailed on 16 January 2008 are hereby **VACATED**.

Regarding the Notification Of Transmittal Of Purported International Application To The International Bureau As Receiving Office And Invitation To Pay Fee (Form PCT/RO/151) mailed on 10 January 2008, said Notification was issued in error since the international application was filed in the English language. Accordingly, the Regarding the Notification Of Transmittal Of Purported International Application To The International Bureau As Receiving Office And Invitation To Pay Fee (Form PCT/RO/151) mailed on 10 January 2008 is also hereby **VACATED**.

DECISION

The United States receiving Office (RO/US) will act as receiving Office for this international application. This international application is being forwarded to the RO/US for further processing.

/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

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
FRANCIS G. PLATI
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVE., N.W., SUITE 800
WASHINGTON, DC 20037-3213

PCT

NOTIFICATION OF DECISION ON PROTEST

(PCT Rule 40.2(c) and (e) and Administrative Instructions, Section 502)

Applicant's or agent's file reference F216322	Date of Mailing (*day/month/year*) JAN 22 2008 **IMPORTANT NOTIFICATION**
International application No. PCT/US07/61607	International filing date (*day/month/year*) 05 February 2007 (05.02.2007)
Applicant AFL TELECOMMUNICATIONS LLC	

The applicant is hereby notified that this International Searching Authority, after having examined the protest on the payment of the additional fee(s), has reached the decision indicated below.

1. ☒ **The protest is found justified** to the extent that:

   a. ☒ total reimbursement of the additional fee(s) and any protest fee will be made in due course.

   b. ☐ partial reimbursement in the amount of _____ ***(amount/currency)*** will be made in due course for the following reasons:

2. ☐ **The protest is found unjustified** and the additional fee(s) will not be refunded for the following reason(s):

ATTENTION

The applicant should notify the International Bureau promptly if he wishes a copy of the protest and the decision thereon to be sent to the designated Offices.
A copy of this notification has been sent to the International Bureau.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer Richard Seidel Telephone No. 571 272 2800

Form PCT/ISA/212 (July 1992)

1 2 MAR 2007

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Aseet Patel
BANNER & WITCOFF, LTD.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606

In re Application of	:	
BANK OF AMERICA	:	
PCT No.: PCT/US07/61694	:	DECISION ON PETITION
Date of Receipt: 06 February 2007	:	UNDER 37 CFR 1.182
Priority Date: 06 February 2006	:	
Agent's Ref. No.: 007131.00023	:	
For: CROSS-PLATFORM DATA PROCESSING	:	

This decision is in response to applicants' 15 February 2007 communication filed via facsimile, which is being treated as a petition under 37 CFR 1.182 requesting that the International Searching Authority (ISA) in the present international application be changed from the United States International Searching Authority (ISA/US) to the European International Searching Authority (ISA/EP).

The $400 petition fee was charged to counsel's Deposit Account No. 19-0733 as authorized.

On 06 February 2007, applicants filed international application PCT/US07/61694. The REQUEST in Box No. VII, "International Searching Authority" indicates the ISA/US as the ISA for the present international application.

On 15 February 2007, applicants filed the present petition via facsimile requesting that the ISA for international application PCT/US06/61694 be changed from the ISA/US to the ISA/EP.

A review of the application file reveals that the United States Receiving Office (RO/US) has not yet transmitted the search copy of the present international application to the International Searching Authority. Therefore, applicants' petition under 37 CFR 1.182 to

change the ISA in the present application from the ISA/US to the ISA/EP is hereby **GRANTED**.

The present application is being returned to the RO/US for processing in accordance with this decision, that is, for changing the searching authority from the ISA/US to the ISA/EP.

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/LS:jf

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Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza
180 North Stetson Ave., Suite 4900
Chicago IL 60601-6731

In re Application of	:	
FEDERAL SIGNAL CORPORATION	:	DECISION
PCT No.: PCT/US07/62439	:	
Date of Receipt: 20 February 2007	:	
Priority Date Claimed: 22 February 2006	:	
Attorney's Docket No.: 701187	:	
For: FULLY INTEGRATED LIGHT BAR	:	

This is in response to applicant's "PETITION AND REQUEST FOR REFUND" filed via facsimile transmission on 22 February 2007.

BACKGROUND

On 20 February 2007, applicant filed international application papers including a Request, description, claims, abstract and drawings, with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 22 February 2007, applicant filed the instant petition under 37 CFR 1.182 and request for refund.

DISCUSSION

Petition Under 37 CFR 1.182

Applicant requests that the International Searching Authority (ISA) be changed from the "ISA/EP" to the "ISA/US".

Although the PCT does not specifically provide for a change in the ISA upon request, because the search copy for the present application has not been prepared and communicated, a change in ISA is permissible. The requisite petition fee has been paid.

Request for Refund

The search fee for the ISA/EP paid by applicants was $2,059. The search fee for the ISA/US in the instant application is $300. The difference of $1,759 has been credited to Deposit Account No. 12-1216.

CONCLUSION

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

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, including preparation and transmittal of the search copy to the United States International Searching Authority (ISA/US).

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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06 APR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEYDIG, VOIT & MAYER, LTD.
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Chicago, Illinois 60601-6731

In re Application of		
FEDERAL SIGNAL CORPORATION	:	
Int. Application No.: PCT/US07/62442	:	
Int. Filing Date: 20 February 2007	:	DECISION
Priority Date: 22 February 2006	:	
Attorney Docket No.: 701185	:	
For: ALL HAZARD RESIDENTIAL WARNING SYSTEM	:	

This decision is issued in response to applicant's "Petition and Request for Refund" filed 22 February 2007, which is being treated as a Petition under 37 CFR 1.182. Applicant is requesting to change the searching authority for the above-identified application to the United States International Searching Authority (ISA/US). Deposit Account no. 12-1216 has been charged a $400 petition fee under 37 CFR 1.17(f).

On 20 February 2007, applicant filed international application PCT/US07/62442, which claimed priority of an earlier US application filed 22 February 2006. In Box No. VII-1 International Searching Authority, applicant indicated the European Patent Office (EP) as the International Searching Authority. Additionally, applicant indicated on the Fee Calculation Sheet that the search fee was $2059, the amount the ISA/EP required for the EP to be the International Searching Authority.

The records of the United States Receiving Office (RO/US) show that processing of the search copy of the international application has not begun. Since the RO/US has not transmitted the search copy of the international application to the ISA/EP, applicant's petition under 37CFR 1.182 is **GRANTED**.

The $2059 search fee for EP/ISA will be refunded to Deposit Account no. 12-1216. The $300 search fee for US/ISA will be charged to Deposit Account no. 12-1216.

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

Anthony Smith
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Office of PCT Legal Administration
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Fax: 571-273-0459

06 APR 2007

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In re Application of
FEDERAL SIGNAL CORPORATION :
Int. Application No.: PCT/US07/62444 :
Int. Filing Date: 20 February 2007 : DECISION
Priority Date: 22 February 2006 :
Attorney Docket No.: 701178 :
For: INTEGRATED MUNICIPAL MANAGEMENT CONSOLE :

This decision is issued in response to applicant's "Petition and Request for Refund" filed 22 February 2007, which is being treated as a Petition under 37 CFR 1.182. Applicant is requesting to change the searching authority for the above-identified application to the United States International Searching Authority (ISA/US). Deposit Account no. 12-1216 has been charged a $400 petition fee under 37 CFR 1.17(f).

On 20 February 2007, applicant filed international application PCT/US07/62444, which claimed priority of an earlier US application filed 22 February 2006. In Box No. VII-1 International Searching Authority, applicant indicated the European Patent Office (EP) as the International Searching Authority. Additionally, applicant indicated on the Fee Calculation Sheet that the search fee was $2059, the amount the ISA/EP required for the EP to be the International Searching Authority.

The records of the United States Receiving Office (RO/US) show that processing of the search copy of the international application has not begun. Since the RO/US has not transmitted the search copy of the international application to the ISA/EP, applicant's petition under 37CFR 1.182 is **GRANTED**.

The $2059 search fee for EP/ISA will be refunded to Deposit Account no. 12-1216. The $300 search fee for US/ISA will be charged to Deposit Account no. 12-1216.

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

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04 DEC 2007

Paul A. Ragusa
BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112

In re Application of
IMS SOFTWARE SERVICES, LTD.
PCT No.: PCT/US2007/062585
Int. Filing Date: 13 November 2007
Priority Date: None
Docket No.: 065855.0420
For: DYNAMIC CAPTURE RATE PERFORMANCE METRIC

DECISION

This decision is in response to applicant's "Response to Invitation to Correct the Purported International Application" filed in the United States Receiving Office (RO/US) on 13 November 2007. This is treated as a petition under 37 CFR 1.181.

BACKGROUND

On 22 February 2007, applicant filed a Fee Worksheet (PTO-06) along with $2,406.00 in international fees using the EFS-Web system to the RO/US.

On 07 November 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103) indicating that the application did not have a part which on the face of it appears to be a description or a part which on the face of it appears to be a claim or claims. The Form PCT/RO/103 indicated that the international filing date would be the date on which the corrections were received, provided the corrections were received within one month of the mailing.

On 13 November 2007, applicant filed a response which was accompanied by, *inter* alia, a PCT Request; Fee Calculation Sheet; 10 pages of description; 6 pages of claims; 1 page of Abstract; and 5 pages of Figures.

DISCUSSION

Applicant claims that several papers including a specification, claims, abstract and drawings were originally filed on 22 February 2007. Applicant states that a "transmission error may have occurred causing the Receiving Office not to receive the entire file." Applicant requests that an international filing date of 22 February 2007 and a priority date of 24 February 2006 pursuant to PCT Rule 26 bis.3 be accorded. This is not possible at this time.

A review of the Electronic Acknowledgement Receipt in the subject application shows that applicant submitted a Fee Worksheet (PTO-06) and $2,406.00 in fees on 22 February 2007. There is no evidence that any other documents were filed on that date.

For a grantable petition, applicant must show that the documents which on their face appears to be a description and claim(s) were provided electronically on 22 February 2007. No such showing has been made. A mere assertion that a transmission error may have occurred is not sufficient.

As such, applicant's request that an international filing date of 22 February 2007 be accorded cannot be granted at this time. The international filing date is the date on which the corrections were received, *i.e.*, 13 November 2007.

Applicant also requests that the priority claim of 24 February 2006 be restored pursuant to PCT Rule 26*bis*.3.

PCT Rule 26*bis*.3. *Restoration of the Right of Priority by Receiving Office* did not take effect until 01 April 2007. Hence, this procedure was not in effect at the purported time of filing and cannot be used.

CONCLUSION

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

Applicant has **TWO (2) MONTHS** from the mail date of this decision to provide a response to this decision.

Further correspondence should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

The application is being returned to RO/US for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

15 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 Rockefeller Plaza
New York, NY 10112

In re Application of :
IMS SOFTWARE SERVICES, LTD. :
PCT No.: PCT/US2007/062585 :
Int. Filing Date: 13 November 2007 :
Priority Date: None : **DECISION**
Docket No.: 065855.0420 :
For: DYNAMIC CAPTURE RATE :
PERFORMANCE METRIC :

This decision is in response to the "Renewed Petition and Response to Petition Decision" filed in the United States Receiving Office (RO/US) on 10 January 2008.

BACKGROUND

On 22 February 2007, applicant filed a Fee Worksheet (PTO-06) along with $2,406.00 in international fees using the EFS-Web system to the RO/US.

On 07 November 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103) indicating that the application did not have a part which on the face of it appears to be a description or a part which on the face of it appears to be a claim or claims. The Form PCT/RO/103 indicated that the international filing date would be the date on which the corrections were received, provided the corrections were received within one month of the mailing.

On 13 November 2007, applicant filed a response arguing that claims and a description were filed with the RO/US electronically on 22 February 2007. Applicant included copies of a PCT Request, a Fee Calculation Sheet, 10 pages of description, 6 pages of claims, 1 page of an Abstract; and 5 pages of Figures purportedly filed on 22 February 2007. This was treated as a petition under 37 CFR 1.181.

On 04 December 2007, a decision dismissing applicant's petition under 37 CFR 1.181 was mailed. The international filing date was deemed to be 13 November 2007.

On 26 December 2007, the RO/US mailed a Notification that the Purported International Application is Not and Will Not be Treated as an International Application (Form PCT/RO/104) citing the decision mailed 04 December 2007.

On 10 January 2008, applicant filed the subject renewed petition which was accompanied by, *inter alia*, a copy of an e-mail sent to applicant on 23 February 2007.

DISCUSSION

It is first noted that the Notification that the Purported International Application is Not and Will Not be Treated as an International Application (Form PCT/RO/104) was sent in error, and is hereby **VACATED**.

Applicant filed a timely response to the Form PCT/RO/103 containing the required corrections on 13 November 2007. Applicant's claim that the description and claims were originally filed on 22 February 2007 was dismissed.

As such, the international filing date is 13 November 2007.

Renewed Petition Under 37 CFR 1.181

In the renewed petition, applicant requests reconsideration of the 04 December 2007 decision. In support of this request, applicant submitted a copy of an e-mail sent on 23 February 2007 from the law firm to applicant reporting the filing of the international applicaiton. The e-mail contained a copy of the entire application (description, claims, abstract and drawings) as sent by applicant to the RO/US on 13 November 2007. Ms. Laurie Nieves states in the cover letter that the law firm filed the international application designated PCT/US07/62585.

Regardless, this is not **direct** evidence and is not sufficient to show that applicant filed a part which on the face of it appears to be a description or a part which on the face of it appears to be a claim or claims with the RO/US on 22 February 2007.

As stated in the prior decision, the documents received by the RO/US on 22 February 2007 included a Fee Worksheet (PTO-06) and $2,406.00 in fees. The evidence submitted in the renewed petition does not prove that any other documents were filed successfully with the RO/US on 22 February 2007.

CONCLUSION

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

Applicant has **TWO (2) MONTHS** from the mail date of this decision to provide a response to this decision.

The application is being returned to RO/US for continued processing including

the mailing 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 November 2007.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

05 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

Michael D. Berger
Baker & McKenzie LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
Houston, TX 77002-2746

In re Application of	:	
INDEPENDENT FORENSICS Inc.	:	
PCT No.: PCT/US2007/062630	:	
Int. Filing Date: 23 February 2007	:	DECISION
Priority Date: 22 February 2006	:	
Docket No.: 31196716-003	:	
For: FORENSIC TEST FOR HUMAN SEMEN	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181 to correct the international filing date, applicant's request to restore the right of priority and to add a priority claim, all filed in the United States Patent and Trademark Office on 20 July 2007.

BACKGROUND

On 23 February 2007, applicant filed international application PCT/US2007/062630 via EFS Web, claiming a priority date of 22 February 2006.

On 27 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 23 February 2007 and an Invitation to Correct Defects (Form PCT/RO/106).

On 07 June 2007, the International Bureau mailed Invitation to Correct Priority Claim (Form PCT/IB/316) indicating that the 22 February 2006 filing date of the priority application did not fall within the twelve months prior to the filing of the international application.

On 20 July 2007, applicant filed this petition to correct the international filing date, to restore the priority claim and to add a priority claim.

DISCUSSION

International Filing Date

Applicants filed their international application via EFS-Web and received a confirmation receipt indicating that it was submitted at 00:04:52 on 23 February 2007. Applicants allege that they encountered irregularities in uploading the application and that they should have received a filing date of 22 February 2007. The Office has reviewed the records of the applicants' transactions and applicant's version of events is not supported. According to the transactions, the submit button was not pressed until after midnight.

Restore Right of Priority

Applicant has requested that the Office restore applicant's right to priority. The provisions for restoring a right to priority apply only to applications filed on or after 01 April 2007. Your application was filed on 23 February 2007. The provision is not available for this application.

Addition of Priority Claim

Applicant's request to add an additional priority claim was made on 20 July 2007, more than 16 months from the priority date and more than 4 months from the international filing date. It is not timely.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date is **DISMISSED** without prejudice.

The application is being returned to the RO/US 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: Notification Relating to Priority Claim (Form PCT/RO/111)

25 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JEFFERY J. MAKEEVER
REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
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In re Application of :
RANCO INCORPORATED OF DELAWARE :
PCT No.: PCT/US2007/063060 :
Int. Filing Date: 01 March 2007 :
Priority Date: 31 March 2006 :
Docket No.: 504144CIPPCT :
For: OCCUPANCY-BASED ZONING CLIMATE CONTROL SYSTEM AND METHOD :

DECISION

ON PETITION UNDER

37 CFR 1.181

This decision is in response to applicant's Petition Under 37 CFR 1.181 to correct the international filing date of the above application, filed in the United States Patent and Trademark Office on 08 August 2007.

BACKGROUND

On 01 March 2007, applicant filed international application PCT/US2007/063060 via EFS Web.

On 26 July 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 06 March 2007.

On 08 August 2007, applicant filed this petition to correct the international filing date.

DISCUSSION

Office records indicate that this application was filed on 01 March 2007. The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 26 July 2007, indicating that the application had an international filing date of 06 March 2007 issued in error.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), mailed 26 July 2007 is **VACATED**.

The application is being returned to the RO/US 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

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26 SEP 2007

Derek C. Stettner
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In re Application of :
IMAGINEER SOFTWARE, INC. :
PCT No.: PCT/US07/63361 : DECISION UNDER
Int. Filing Date: 06 March 2007 : 37 CFR 1.181
Priority Date: 06 March 2006 :
Agent's File Reference: 048531-9011 WO :
For: SECURE DATA TRANSMISSION USING :
UNDISCOVERABLE OR BLACK DATA

Applicants' 01 June 2007 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 03 March 2007 to 06 March 2007. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 06 March 2007, applicants filed international application PCT/US07/63361 via EFS-WEB, which claimed priority to a U.S. application filed 06 March 2006. Furthermore, the United States Receiving Office (RO/US) stamped the PCT Request with an 06 March 2007 international filing date.

On 26 April 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 03 March 2007 international filing date.

On 01 June 2007, applicants filed the present petition informing the RO/US that the 03 March 2007 international filing date as indicated on the Form PCT/RO/105 mailed 26 April 2007 is incorrect and should be changed to 06 March 2007.

DISCUSSION

A review of the Electronic Acknowledgement Receipt and the PCT Request reveals that international application PCT/US07/63361 was filed in the USPTO on 06 March 2007. Therefore, the 03 March 2007 international filing date as indicated on the Form PCT/RO/105 mailed 26 April 2007 is incorrect. The correct international filing date for the present international application is 06 March 2007.

CONCLUSION

Applicants' 01 June 2007 petition to correct the international filing date from 03 March 2007 to 06 March 2007 is hereby **GRANTED.** The Form PCT/RO/105 mailed 26 April 2007 is **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 indicating an 06 March 2007 international filing date are 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

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Enclosures: copy of corrected Form PCT /RO/105.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wesley C. Rosander
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

In re Application of
EXPLOIT PREVENTION LABS, INC.
PCT No.: PCT/US07/64949
International Filing Date: 26 March 2007
Priority Date: 24 March 2006
Attorney's Docket No.:17068.1A
For: SOFTWARE VULNERABILITY EXPLOITATION SHIELD

DECISION ON PETITION

This decision is issued in response to applicant's "Response to Invitation to Correct Priority Claim" filed 26 July 2007 to accord an international filing date of 26 March 2007 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 29 March 2007 to the above-identified international application.

On 09 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). All documents listed the international filing date as 29 MAR 2007.

On 26 July 2007, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 26 March 2007.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 26 March 2007. 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 26 March 2007 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 26 March 2007 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 26 March 2007, 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 09 July 2007 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 26 March 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 26 March 2007; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
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cc: International Bureau of WIPO
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CH-1211 Geneva 20
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SALT LAKE CITY UT 84111

In re Application of	:	DECISION ON
HIGH PERFORMANCE COATINGS, INC.	:	
PCT No.: PCT/US2007/065373	:	PETITION
Int. Filing Date: 28 March 2007	:	
Priority Date: 29 March 2006	:	
Attorney's Docket No.: 16636.1A	:	
For: VALVES HAVING CORROSION RESISTANT CERAMIC COATING AND METHODS AND SYSTEMS FOR MANUFACTURING SAME	:	

This decision is in response to applicant's submission filed via facsimile transmission on 28 August 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 June 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 28 March 2007 and a priority date of 29 March 2006.

On 15 June 2007, the RO/US also mailed an INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) indicating that for item (4) (US application number 11/690,098) in the priority claim section of the Request, there was an inconsistency with regard to the filing date; the Request indicated the filing date as 26 March 2007 but the priority document itself indicated a filing date of 22 March 2007. The INVITATION set a time limit for response of 16 months from the earliest priority date.

On 15 June 2007, the RO/US also mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) indicating that the RO/US did not forward a certified copy of US application number 11/690,098 because the filing date on the application did not correspond to the filing date indicated in the Request.

On 27 August 2007, the RO/US mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/RO/111) indicating that the priority claim to US application number

11/690,098 was considered not to have been made because the application failed to respond to the INVITATION TO CORRECT PRIORITY CLAIM within the prescribed time limit.

On 28 August 2007, applicants submitted the instant submission via facsimile transmission, which has properly been treated as a petition under 37 CFR 1.181. The petition was accompanied by a copy of a "RESPONSE TO INVITATION TO CORRECT PRIORITY CLAIM" and an "Auto-Reply Facsimile Transmission" from the USPTO indicating that a fax transmission was received on 29 June 2007.

DISCUSSION

PCT Rule 26bis

PCT Rule 26bis.2(b) states in part, that "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."

Here, the priority claim at issue contained an indication (the filing date as 26 March 2007) that was not the same as the corresponding indication appearing in the priority document (the filing date as 22 March 2007). Thus, the priority claim to US application number 11/690,098 should not have been considered not to have been made. Accordingly, the INVITATION TO CORRECT PRIORITY CLAIM mailed 15 June 2007 and the NOTIFICATION RELATING TO PRIORITY CLAIM mailed 27 August 2007 are hereby VACATED.

Copy of Priority Document

A copy of US application number 11/690,098 has been forwarded to the International Bureau.

Petition Under 37 CFR 1.181

The petition requests that the copy of the "RESPONSE TO INVITATION TO CORRECT PRIORITY CLAIM" be accepted as having been received in the RO/US on 29 June 2007 based on the "Auto-Reply Facsimile Transmission". However, 37 CFR 1.8(a)(2)(i)(E) precludes the filing of correspondence in an international application before the RO/US via facsimile transmission from receiving the benefits of 37 CFR 1.8(a)(1). Accordingly, the copy of the response filed 28 August 2007 is not accepted as having been originally received in the RO/US on 29 June 2007.

It is noted that even if the response were accepted as originally filed 29 June 2007, the response would not be sufficient. The response includes a replacement page showing the filing date of US application number 11/690,098 as 26 March 2007 rather than the correct filing date of 22 March 2007.

CONCLUSION

For the reasons set forth above, the INVITATION TO CORRECT PRIORITY CLAIM mailed 15 June 2007 is VACATED.

For the reasons set forth above, the NOTIFICATION RELATING TO PRIORITY CLAIM mailed 27 August 2007 is 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 PCT Central Files for storage.

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

CC: International Burea of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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18 SEP 2007

DAVID B. TINGEY
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

In re Application of	:	
MAXWELL PRODUCTS, Inc.	:	DECISION ON
PCT No.: PCT/US07/65700	:	
Int. Filing Date: 30 March 2007	:	PETITION
Priority Date: 30 March 2006	:	
Docket No.: 8347.9	:	UNDER 37 CFR 1.181
For: SYSTEMS AND METHODS ...	:	
PACKAGING THEREOF	:	

This is a decision on applicant's papers submitted to the United States Patent and Trademark Office on 18 June 2007. They have been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 30 March 2007, applicant submitted *inter alia*, a Request, description, claims, drawings and an abstract.

On 23 May 2007, the Office mailed *inter alia*, a Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107) indicating that drawings referenced in the description were not included with the filing.

On 18 June 2007, applicant filed this petition under 37 CFR 1.181, a copy of electronic filing receipt and a copy of the papers applicant claims were submitted to USPTO on 30 March 2007.

DISCUSSION

Applicant's originally filed drawings were located on the server, though they had not been uploaded to the application file.

The drawings will be forwarded to the International Bureau.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Non-Inclusion of Drawings with the International Application (Form PCT/RO/107) mailed 23 May 2007 is **VACATED**.

The missing drawings are being forwarded to the International Bureau. This application is being forwarded to the United States Receiving Office for further processing consistent with this decision, including the issuance of corrected forms.

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

Enc: Originally Filed Drawings (11 sheets)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

07 SEP 2007

Donald J. Perreault
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

In re Application of	:	
Stoneridge, Inc. et al	:	
PCT No.: PCT/US07/65854:	:	DECISION ON
Int. Filing Date: 03 April 2007	:	
Priority Date: 03 February 2006	:	PETITION
Attorney Docket No.: SHS108PCT2	:	
For: SOLENOID VALVE	:	UNDER 37 CFR 1.182

This decision is in response to applicant's "REQUEST FOR RESTORATION OF THE RIGHT OF PRIORITY PURSUANT TO PCT RULE 26bis.3" filed in the United States Patent and Trademark Office (USPTO) on 03 April 2007. The petition is being treated under 37 CFR 1.182.

BACKGROUND

On 03 April 2007, applicant filed a Request in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to U.S. application serial number 60/764,885, filed 03 February 2006.

DISCUSSION

Applicant has presently included a statement that the failure to file and the delay in filing the international application within the priority period was unintentional. Applicant has included in the Request Form indication of the priority claim to U.S. application number 60/764,885 filed on 03 February 2006. Applicant has also 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 detailed above, applicants' petition under 37 CFR 1.182 is **GRANTED**.

Application No.: PCT/US07/65854

Applicant is advised that restoration of a right of priority to a prior application by the United States Receiving Office under the provisions of PCT Rule 26bis.3 will not entitle applicant to a right of priority to such prior application in any application which enters the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored. Furthermore, applicant may not be entitled to a right of priority in certain other offices. See PCT Rule 49*ter*.1(g) and PCT Reservations, Declarations, Notifications, and Incompatibilities (**http://www.wipo.int/pct/en/texts/reservations/res_incomp.pdf**), page 3.

This application is being forwarded to the RO/US for further processing in accordance with this decision including the processing of applicant's Request Form and 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 03 February 2006.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Shian Luong
Special Programs Examiner
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ATTACHMENT: FORM PCT/RO/159

UNITED STATES PATENT AND TRADEMARK OFFICE

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01 APR 2008

Eric M. Barzee
BATTELLE ENERGY ALLIANCE, LLC
P.O. Box 1625
Idaho Falls, ID 83415-3899

In re Application of :
BATTELLE ENERGY ALLIANCE, LLC :
PCT No.: PCT/US2007/066105 :
Int. Filing Date: 05 April 2007 :
Priority Date: 03 April 2006 : **DECISION**
Docket No.: BA-113 :
For: ACTINIUM RADIOISOTOPE :
PRODUCTS OF ENHANCED PURITY :

This decision is in response to applicant's request to restore the right of priority filed in the United States Receiving Office (RO/US) on 05 April 2007. This is treated under 37 CFR 1.182.

BACKGROUND

On 05 April 2007, applicant filed international application PCT/US2007/066105 using the USPTO EFS-Web system claiming priority to U.S. application No. 11/278,522 filed 03 April 2006. Applicant also included a request for restoration of the right of priority under PCT Rule 26*bis*.3 which was accompanied by, *inter alia*, a declaration of Eric M. Barzee.

DISCUSSION

Restoration of the right of priority is allowed in the PCT pursuant to PCT Rule 26*bis*.3 (effective 01 April 2007). The priority period must be within fourteen months of the international filing date. Applicants must also establish that the failure to file the international application within the priority period occurred in spite of due care required by the circumstances, or was unintentional. A statement of reasons must also be filed within the 14 month period.

Here, the PCT application was filed after 01 April 2007. The priority period of 03 April 2006 is within fourteen months of the international filing date of 05 April 2007. Applicant submitted a statement that the delay occurred in spite of due care required by the circumstances and signed by Mr. Barzee. The explanation satisfies the requirements of PCT Rule 26*bis*.3.

The $400.00 petition fee has been charged as authorized.

CONCLUSION

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

The priority date of 03 April 2006 has been restored.

A Notification of Decision on Request to Restore the Right of Priority (Form PCT/RO/159) will be mailed with this decision.

This application is being returned to the RO/US for further processing including the mailing of a Form PCT/RO/105 indicating an international filing date of 05 April 2007 and a priority date of 03 April 2006.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: The International Bureau of WIPO
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1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 JAN 2008

Charles E. Dadswell
Glaxosmithkline
Corporate Intellectual Property Dept.
Five Moore Drive, P.O. Box 13398
Research Triangle Park, North Carolina 27709

In re Application of :
SMITHKLINE BEECHAM CORPORATION :
PCT No.: PCT/US07/66732 :
International Filing Date: 17 April 2007 :
Priority Date: 01 November 2006 : DECISION ON PETITION
Attorney's Docket No.: PR61307WO :
For: PROCESS FOR THE PREPARATION OF :
INTERMEDIATES USEFUL IN THE
TREATMENT OF HIV INFECTION

This decision is issued in response to applicant's "Correction of Filing Date in the PCT/RO/US" filed 28 August 2007 to accord an international filing date of 17 April 2007 to the above-identified international application. Applicant's petition is being treated under 37 CFR 1.181. Additionally, this decision is issued in response to applicant's "Correction to PCT/US2007/066732 International Filing Date in the PCT US/RO and WIPO" filed 22 January 2008. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 20 April 2007 to the above-identified international application.

On 06 August 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 Defects in the International Application (Form PCT/RO/106). All documents listed the international filing date as 20 APRIL 2007.

On 28 August 2007, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 17 April 2007.

On 22 January 2008, applicant filed "Correction to PCT/US2007/066732 International Filing Date in the PCT US/RO and WIPO."

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 17 April 2007. 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 17 April 2007 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 17 April 2007 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 17 April 2007, 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 17 April 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 17 April 2007; 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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24 AUG 2007

John A. Miller
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Bloomington, MI 48301

In re Application of	:	
MI4SPINE, LLC	:	
PCT No.: PCT/US07/67129	:	DECISION ON
Int. Filing Date: 20 April 2007	:	PETITION UNDER
Priority Date: 08 August 2006	:	37 CFR 1.182
Attorney's Docket No.: MI4-00001PA	:	
For: DEVICE FOR COLLECTING BONE MATERIAL DURING A SURGICAL PROCEDURE	:	

This decision is issued in response to applicant's "Statement for Restoration of the Right of Priority" filed in the United States Patent and Trademark Office (USPTO) on 20 April 2007. The petition is being treated under 37 CFR 1.182. As authorized, the $400.00 petition fee will be charged to deposit account no. 50-1612.

BACKGROUND

On 20 April 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to US application number 60/785,060 filed 23 March 2006 under PCT Rule 26*bis*.1(a).

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.

Applicant has submitted the requisite $400 petition fee under 37 CFR 1.17(f). Therefore, item (i) has been satisfied.

The priority claim in respect of the earlier application is contained in the international application. Therefore, item (ii) has been satisfied.

As to item (iii), applicant has not presently included a statement that the entire delay in filing the international application was unintentional. Therefore, item (iii) has not been satisfied and applicant's request for restoration of right of priority is dismissed.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

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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cc: International Bureau of WIPO
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31 AUG 2007

John A. Miller
600 Waddington
Bloomington, MI 48301

In re Application of	:	
MI4SPINE, LLC	:	
PCT No.: PCT/US07/67129	:	DECISION ON
Int. Filing Date: 20 April 2007	:	PETITION UNDER
Priority Date: 23 March 2006	:	37 CFR 1.182
Attorney's Docket No.: MI4-00001PA	:	
For: DEVICE FOR COLLECTING BONE MATERIAL DURING A SURGICAL PROCEDURE	:	

This decision is issued in response to applicant's "Letter in Response to Decision on Petition under 37 CFR 1.182" filed in the United States Patent and Trademark Office (USPTO) on 28 August 2007.

BACKGROUND

On 20 April 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request under 37 CFR 1.182 to restore the right of priority to US application number 60/785,060 filed 23 March 2006 under PCT Rule 26*bis*.1(a).

In a decision dated 24 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 28 August 2007, applicant filed "Letter in Response to Decision on Petition under 37 CFR 1.182."

On 31 August 2007, the United States Receiving Office mailed "Invitation to Correct Priority Claim (Form PCT/RO/110)."

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**.

The Invitation to Correct Priority Claim (Form PCT/RO/110) mailed 31 August 2007 is hereby **VACATED**.

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 60/785,060 filed 23 March 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 23 March 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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1 0 DEC 2007

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PATRICK ZHANG
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In re Application of :
THE REGENTS OF THE :
UNIVERSITY OF CALIFORNIA :
PCT No.: PCT/US07/67130 :
Int. Filing Date: 20 April 2007 : DECISION
Priority Date: 19 April 2006 :
Docket No.: 18062L-89PC :
For: TETHERED AIRWAY IMPLANTS AND :
METHODS OF USING THE SAME :
:

This decision is in response to applicant's "Request For Rectification of Obvious Mistakes Under Rule 91," filed with the United States Patent and Trademark Office on 14 February 2007.

BACKGROUND

On 20 April 2007, applicant filed international application PCT/US07/67130, claiming a priority date of 19 April 2006. It included a description, claims and drawings. The description bore a different title to that in the Request form (Form PCT/RO/101).

On 14 June 2007, the Office mailed Notification of International Application Number and of the International Filing Date (Form PCT/RO/105), indicating that the application had a filing date of 20 April 2007, an Invitation to Correct Defects (Form PCT/RO/106) and a Notification Regarding Certain Corrections Made *Ex Officio* (Form PCT/RO/146).

On 17 July 2007, applicant filed a response to the Notification of International Application Number and of the International Filing Date, indicating that applicant believed that the application number and filing date were both incorrect.

On 20 August 2007, applicant filed a signature page for a Request form that was not the one filed in this application.

On 28 September 2007, applicant filed a petition to, *inter alia,* correct the attorney docket number, the applicant and agent.

On 04 October 2007, applicant indicated that the wrong Request form had been submitted with this application and asked that the Office accept the accompanying one.

On 15 October 2007, applicant filed a request to rectify an obvious error, accompanied by, *inter alia*, substitute sheets of Request.

DISCUSSION

Applicant's request substitute out the Request form submitted with the filing of this application is not a proper request for a rectification under PCT Rule 91.1. First, the standard is "something other than what was obviously intended was written in the international application or

other paper ... [and t]he 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 applicants' and inventors' names, attorney of record, and priority claim are not obvious errors and their proposed correction is also not obvious in the sense that nothing else could have been intended.

The title of the application will be changed Under Rule 91.1 and will be forwarded to the International Bureau as this application has not yet published. However, the request was made after 17 months from the priority date.

The submission of a different form PCT/RO/101 is a series of requests under PCT Rule 92*bis* and a Request Under PCT Rule 26*bis*. The change requests are signed by Babak Kusha, but he has not provided a power of attorney from all of the applicants affected by the changes.

Further, the request to correct the priority claim was made after the later of 16 months from the priority date or 4 months from the international filing date. The request is untimely and will not be acted upon.

CONCLUSION

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

Any further correspondence with respect to this matter may be filed electronically 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.

This application is being returned to PCT Operations for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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cc: International Bureau
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Switzerland

Enclosure: Form PCT/RO/109

UNITED STATES PATENT AND TRADEMARK OFFICE

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31 JUL 2007

GIBB & RAHMAN, LLC
2568-A RIVA ROAD SUITE 304
ANNAPOLIS, MD 21401

In re Application of NEWPORT MEDIA, INC. :
PCT Application No.: PCT/US2007/67738 :
Int. Filing Date: 30 April 2007 :
Priority Date Claimed: 24 May 2006 : DECISION
Attorney Docket No.: NMI5009PCT :
For: ROBUST TRANSMISSION SYSTEM AND METHOD FOR MOBILE TELEVISION APPLICATIONS :

This is in response to applicant's "Petition to the Director Under 37 C.F.R. §1.182" filed 20 July 2007.

BACKGROUND

On 30 April 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO.

On 20 July 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the description, claims, drawings, and power of attorney in PDF format were contained within a ZIP file which was uploaded via EFS-Web on 30 April 2007. EFS-Web guidelines specify that only PDF, ASCII text, and PCT-EASY ZIP files may be uploaded. Because the 30 April 2007 submission did not fully comply with such guidelines, a refund of the petition fee is not indicated in the present case. However, the description, claims, drawings, and power of attorney have been successfully extracted.

CONCLUSION

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

The description, claims, drawings, and power of attorney are accorded a receipt date of 30 April 2007.

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

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0 6 AUG 2007

GIBB & RAHMAN, LLC
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Annapolis, MD 21401

In re Application of
NEWPORT MEDIA, INC.
PCT No.: PCT/US2007/067742
Int. Filing Date: 30 April 2007
Priority Date: 20 June 2006
Attorney Docket No.: NMI.5016PCT
For: AN EFFICIENT DOPPLER COMPENSATION METHOD AND RECEIVER FOR ORTHOGONAL-FREQUENCY-DIVISIO N-MULTIPLEXING (OFDM) SYSTEMS

DECISION

This decision is in response to applicant's "Petition to the Director Under 37 C.F.R. §1.182" filed with the United States Receiving Office (RO/US) on 20 July 2007.

BACKGROUND

On 30 April 2007, applicant filed papers purporting to be an international application papers with the RO/US. Applicant placed the specification, claims, abstract and drawings in PDF files and submitted all in a zip file to the RO/US.

On 21 June 2007, applicant resubmitted the specification, claims, abstract and drawings. A zip file was not used.

On 20 July 2007, applicant filed the subject petition under 37 CFR 1.182.

DISCUSSION

Petition Under 37 CFR 1.182

Applicant submitted a zip file with the PCT Request on 30 April 2007. The zip file contains the description, claims, drawings and power of attorney of the subject application. Applicant requests that the RO/US extract these files from the zip file and award an international filing date of 30 April 2007.

A review of the subject application verifies that the descriptions, claims, etc. were submitted with the initial Request in a zip file. Using a zip file to submit these documents is not authorized. This is treated under 37 CFR 1.182. The fee for a petition under 37 CFR

1.182 is $400.00 which has been charged to Deposit Account No. 50-3631 as authorized.

Request for Refund

Applicant claims that the instructions for filing an international application using EFS are "vague and otherwise incomplete." Moreover, applicant insists that he was instructed by a USPTO representative to file his applications, drawings and POA in a zip file. The name of the USPTO representative was not provided.

However, the procedures for filing a PCT electronically are clearly discussed in the USPTO website, under the Quick Start Guide for PCT at http://www.uspto.gov/ebc/portal/efs/pct_quickstart.pdf, which states, in part:

> Attached file section, EFS-Web will ask "Are you attaching a PCT Zip file?" select YES if you have prepared your RO/101 with PCT-SAFE software, browse for your .ZIP file and attach, then click "Upload and Validate". You may only attach one .ZIP file and then upload and validate. After the successful upload of your PCT-SAFE .ZIP file, continue attaching your application parts (i.e.,.PDF documents). If you are not attaching a PCT-SAFE .ZIP file, browse and upload your PDF files as usual.

In addition, in the Frequently Asked Question section of the EBC, under Patent Cooperation Treaty, the following question (120efc073) was discussed:

> Can I use PCT-SAFE in its full operational mode to prepare my entire international application in electronic form and to file it via secure on-line transmission with the United States Receiving Office (RO/US)?
>
> No. EFS-Web will only allow submission of the PCT-EASY .zip file created by PCT-SAFE when operated in the PCT-EASY mode. The PCT-EASY .zip file will contain the Request and fee calculation sheet in PDF format. All other documents or application parts (e.g. description, claims, drawings and abstract) must be separately prepared and attached as PDF documents.
>
> PCT-SAFE when operated in the PCT-EASY mode creates a validated PCT Request which will entitle the applicant to a 200 Swiss franc reduction of the international filing fee.
>
> **If applicant chooses not to use PCT-SAFE to create the Request and fee calculation sheet, the applicant will use the conventional Request (Form PCT/RO/101) and attach it as a PDF document in the same way they attach all other documents or application parts (e.g. description, claims, drawings and abstract).** (Emphasis added.)

Accordingly, a refund of the petition fee is not warranted.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is hereby **GRANTED**. The request for refund of the petition fee 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.

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10 AUG 2007

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In re Application of
NEWPORT MEDIA
PCT No.: PCT/US2007/067743
Int. Filing Date: 30 April 2007
Priority Date: 20 June 2006
Attorney Docket No.: NMI.5015PCT
For: LOW COMPLEXITY SOFT-INPUT VITERBI DECODING FOR DIGITAL COMMUNICATION SYSTEMS

DECISION

This decision is in response to applicant's "Petition to the Director Under 37 C.F.R. §1.182" filed with the United States Receiving Office (RO/US) on 20 July 2007.

BACKGROUND

On 30 April 2007, applicant filed papers purporting to be an international application papers with the RO/US. Applicant placed the specification, claims, abstract and drawings in PDF files and submitted all in a zip file to the RO/US.

On 21 June 2007, applicant resubmitted the specification, claims, abstract and drawings. A zip file was not used.

On 20 July 2007, applicant filed the subject petition under 37 CFR 1.182.

DISCUSSION

Petition Under 37 CFR 1.182

Applicant submitted a zip file with the PCT Request on 30 April 2007. The zip

file contains the description, claims, drawings and power of attorney of the subject application. Applicant requests that the RO/US extract these files from the zip file and award an international filing date of 30 April 2007.

A review of the subject application verifies that the descriptions, claims, etc. were submitted with the initial Request in a zip file. Using a zip file to submit these documents is not authorized. This is treated under 37 CFR 1.182. The fee for a petition under 37 CFR 1.182 is $400.00 which has been charged to Deposit Account No. 50-3631 as authorized.

Request for Refund

Applicant claims that the instructions for filing an international application using EFS are "vague and otherwise incomplete." Moreover, applicant insists that he was instructed by a USPTO representative to file his applications, drawings and POA in a zip file. The name of the USPTO representative was not provided.

However, the procedures for filing a PCT electronically are clearly discussed in the USPTO website, under the Quick Start Guide for PCT at http://www.uspto.gov/ebc/portal/efs/pct_quickstart.pdf, which states, in part:

> Attached file section, EFS-Web will ask "Are you attaching a PCT Zip file?" select YES if you have prepared your RO/101 with PCT-SAFE software, browse for your .ZIP file and attach, then click "Upload and Validate". You may only attach one .ZIP file and then upload and validate. After the successful upload of your PCT-SAFE .ZIP file, continue attaching your application parts (i.e.,.PDF documents). If you are not attaching a PCT-SAFE .ZIP file, browse and upload your PDF files as usual.
>
> Can I use PCT-SAFE in its full operational mode to prepare my entire international application in electronic form and to file it via secure on-line transmission with the United States Receiving Office (RO/US)?
>
> No. EFS-Web will only allow submission of the PCT-EASY .zip file created by PCT-SAFE when operated in the PCT-EASY mode. The PCT-EASY .zip file will contain the Request and fee calculation sheet in PDF format. All other documents or application parts (e.g. description, claims, drawings and abstract) must be separately prepared and attached as PDF documents.
>
> PCT-SAFE when operated in the PCT-EASY mode creates a validated PCT Request which will entitle the applicant to a 200 Swiss franc reduction of the international filing fee.

If applicant chooses not to use PCT-SAFE to create the Request and fee calculation sheet, the applicant will use the conventional Request (Form PCT/RO/101) and attach it as a PDF document in the same way they attach all other documents or application parts (e.g. description, claims, drawings and abstract). (See http://www.uspto.gov/ebc/efs_faq.htm)

Accordingly, a refund of the petition fee is not warranted.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is hereby **GRANTED**. The request for refund of the petition fee 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.

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28 AUG 2007

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In re Application of :
ADMMICRO PROPERTIES, L.L.C. :
PCT No.: PCT/US07/67782 :
International Filing Date: 30 April 2007 :
Priority Date: 28 April 2006 : DECISION ON PETITION
Attorney's Docket No.: APV31932PCT :
For: LIGHTING PERFORMANCE POWER MONITORING SYSTEM AND METHOD WITH OPTIONAL INTEGRATED LIGHT CONTROL :

This decision is issued in response to applicant's "Request for Corrected Filing Date and Response to Invitation to Correct Priority Claim" filed 18 July 2007 to accord an international filing date of 30 April 2007 to the above-identified international application. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 02 May 2007 to the above-identified international application.

On 16 July 2007, the United Receiving Office mailed the following: Notification Concerning Payment of 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 02 MAY 2007.

On 18 July 2007, applicant filed the present petition which included a copy of applicant's (electronic) "Acknowledgment Receipt" dated 30 April 2007.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 30 April 2007. 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 30 April 2007 of the Request (Form PCT/RO/101), Specification, and Drawings for the present application. A review of the materials filed 30 April 2007 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 30 April 2007, 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 16 July 2007 is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 30 April 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 April 2007; and (3) forwarding a copy of this decision to the International Bureau.

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1 0 DEC 2007

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Christopher J. Capelli
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Stamford, CT 06905

In re Application of
MEADWESTVACO CORPORATION
PCT No.: PCT/US07/67787
Int. Filing Date: 30 April 2007
Priority Date: 08 May 2006
Attorney Docket No.: T20565
For: SURFACE APPLICATION OF DECORATIVE MATERIALS TO PAPER FOR USE IN LAMINATES

DECISION ON PETITION

This decision is issued in response to applicant's "Petition to Combine Two PCT Applications into One" filed 20 September 2007.

BACKGROUND

On 30 April 2007, applicant submitted electronically a PCT application which included: 7 page Request (PCT/RO/101); 13 pages of descriptions; 5 pages of claims; 1 page abstract; and 4 pages of drawings. These papers were assigned application number PCT/US07/67787.[1]

Subsequently, on 30 April 2007, applicant submitted electronically a PCT application which included: 7 page Request (PCT/RO/101); 13 pages of descriptions; 5 pages of claims; 1 page abstract; and 4 pages of drawings. These papers were assigned application number PCT/US07/67792.[2]

On 20 September 2007, applicant filed Petition to Combine Two PCT Applications into One."

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[1]A 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) were mailed to applicant on 20 June 2007 and 24 July 2007.

[2]A 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) were mailed to applicant on 24 July 2007.

On 15 October 2007, the International Searching Authority/United States mailed International Search Report (PCT/ISA/210) and Written Opinion of the International Searching Authority (PCT/ISA/237) for both PCT/US07/67787 and PCT/US07/67792.

DISCUSSION

Applicant states that due to EFS system errors on 30 April 2007 applicant was assigned two (2) International application numbers for one (1) international application and the Deposit Account was subsequently charged two (2) applications. Applicant requests "to withdraw PCT/US07/67787, under Rule 90bis in favor of maintaining and combining this withdrawn application into PCT/US07/67792 or applicant requests that a new International application is assigned to a single international application combining both PCT/US07/67787 and PCT/US07/67792."

No further information has been provided regarding the "EFS system error" which occurred on 30 April 2007. Therefore, applicant requests for withdrawing and merging of PCT/US07/67787 and PCT/US07/67792 is refused.

Further, applicant requests to withdraw PCT/US07/67787 under Rule 90bis. PCT Rule 90bis.1 permits the applicant to withdraw an international application at any time before the expiration of thirty months from the priority date. Here, the request for withdrawal was executed by counsel. However, counsel has not submitted separate power of attorney executed by the applicant and appointing him therein. Because the attorney who executed the request for withdrawal has not been appointed by the applicant herein, the request for withdrawal cannot be granted.

It is noted that, pursuant to PCT Rule 90.4(d), the United States Receiving Office (RO/US) has the authority, in some circumstances, to waive the requirement that a separate power of attorney be submitted with an international application. Pursuant to this rule, the RO/US no longer requires the submission of separate power of attorney forms for the basic processing of an international application. However, this waiver does not apply to request for withdrawal of application. (See PCT Rule 90.4(e).

Because the application has not been effectively withdrawn, granting of applicant's request for refund of the application fees is not appropriate. It is noted that 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.

The present international application remains active.

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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UNITED STATES PATENT AND TRADEMARK OFFICE

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20 AUG 2007

BRADFORD C. BLAISE
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MCLEAN VA 22102

In re Application of	:	DECISION ON
APPROVA CORPORATION	:	
PCT No.: PCT/US2007/067929	:	PETITION
Int. Filing Date: 01 May 2007	:	
Priority Date: 01 May 2006	:	
Attorney's Docket No.: 541578360895	:	
For: SYSTEM AND METHOD FOR MANAGING CONTROLS WITHIN A HETEROGENEOUS ENTERPRISE ENVIRONMENT	:	

This decision is in response to applicant's submission filed 25 July 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 01 May 2007, applicant filed international application papers which were assigned international application number PCT/US2007/067929.

On 02 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 01 May 2007 and the priority date as 01 May 2006.

On 02 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 Fig. 2 appeared to be missing.

On 25 July 2007, applicants filed the instant submission which has properly been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of four pages of drawings purportedly filed 01 May 2007 and a copy of an Acknowledgement Receipt dated 01 May 2007.

DISCUSSION

Applicant requests that Figure 2 of the drawings be accepted as having been originally filed in the RO/US on 01 May 2007.

The application papers filed 01 May 2007 were filed electronically. The copy of the "Electronic Acknowledgement Receipt" provided by applicant itemizes four pages of drawings. The electronic file for the application also indicates four pages of drawings as having been filed on 01 May 2007. However, the second of the four pages is blank. Nevertheless, a review of the papers filed 01 May 2007 for the instant application on 01 May 2007 at an internal USPTO website (http://es.uspto.gov/EFSSupportWeb/) shows page 2 of the drawings as including Figure 2 (copy enclosed). Thus, it is evident that on 01 May 2007, applicant filed Figure 2 of the drawings.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE, MISSING mailed 02 July 2007 is hereby **VACATED**.

The application is being returned to the RO/US for processing in accordance with this decision including according the copy of Fig. 2 of the international application a receipt date of 01 May 2007

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

Figure 2 for the instant application obtained from the internal USPTO website (http://es.uspto.gov/EFSSupportWeb/)

UNITED STATES 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 SEP 2007

APPLERA CORPORATION
APPLIED BIOSYSTEMS GROUP
850 LINCOLN CENTRE DRIVE
MAIL STOP 432-2
FOSTER CITY, CALIFORNIA 94404

In re Application of	:	
APPLERA CORPORATION et al.	:	
PCT No.: PCT/US07/68046	:	DECISION ON
Int. Filing Date: 02 May 2007	:	
Priority Date: 03 May 2006	:	PETITION UNDER
Attorney's Docket No.: 6131 WO	:	
For: Methods, Compositions, and Kits For Detecting Protein Aggregates	:	37 CFR 1.181

This decision is in response to applicant's "Petition To Correct The International Filing Date," filed 16 August 2007, which has been treated as a petition under 37 CFR 1.181 to accord an international filing date of 02 May 2007 to the above-identified application.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 04 May 2007 to the above-identified application.

On 17 July 2007, the United States Receiving Office (RO/US) mailed a Notification Concerning Payment of Fees (Form PCT/RO/102) and a Notification of the International Application Number and International Filing Date (Form PCT/RO/105).

On 13 August 2007, the International Bureau mailed an Invitation To Correct Priority Claim (Form PCT/IB/316).

On 16 August 2007, applicants filed the present petition including, a copy of the Electronic Acknowledgement Receipt and, copies of the Image File Wrapper and the Transaction Record listing obtained by applicants from Private PAIR.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the international application papers were electronically filed with the United States Receiving Office (US/RO) on 02 May 2007. The evidence is in the form of the copy of the "Electronic Acknowledgement Receipt" that indicates a "Receipt Date" of "02-MAY-2007" and, identifies the above-captioned application number and docket number. Furthermore, the United States Patent and Trademark Office records reveal that the instant international application was filed on 02 May 2007.

Accordingly, the instant application is accorded an international filing date of 02 May 2007. Furthermore, because an earliest priority date of 03 May 2006 is appropriate, the Invitation To Correct Priority Claim (Form PCT/IB/316) is withdrawn. A corrected Notification of the International Application Number and International Filing Date (Form PCT/RO/105) bearing an international filing date 02 May 2007 is enclosed.

CONCLUSION

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

The international filing date in the instant application is **02 MAY 2007.**

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/IB/316), mailed 17 July 2007, and respectively 13 August 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

18 DEC 2007

Wm. Brook Lafferty
SCIENTIFIC-ATLANTA, INC.
Intellectual Property Dept.
5030 Sugarloaf Parkway
Lawrenceville, Ga 30044

In re Application of
CISCO TECHNOLOGY, INC. ET AL
PCT No.: PCT/US2007/068105
Int. Filing Date: 07 May 2007
Priority Date: 06 March 2006
Docket No.: 25655-5-2PC
For: PROACTIVE CREDENTIAL DISTRIBUTION

DECISION

This decision is in response to applicant's request to restore the right of priority filed in the United States Receiving Office (RO/US) on 03 May 2007. This is treated under 37 CFR 1.182.

BACKGROUND

On 03 May 2007, applicant filed international application PCT/US2007/068905 using the USPTO EFS-Web system claiming priority to U.S. provisional application No. 60/780,176 filed 06 March 2006 and U.S. application No. 11/424,763 filed 16 June 2006. Applicant also included a request for restoration of the right of priority under PCT Rule 26*bis*.3 which was accompanied by, *inter alia*, an accompanying statement and a declaration of Lynda Davis.

On 30 July 2007, the 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 (IFD) of 07 May 2007 and a priority date of 16 June 2006. An Invitation to Correct Priority Claim (Form PCT/RO/110) was also mailed.

On 07 August 2007, the RO/US mailed another Form PCT/RO/105 listing the IFD as 03 May 2007 with a priority date of 16 June 2006. Another Form PCT/RO/110 was mailed indicating problems with the priority date.

On 12 November 2007, applicant filed a response to the Form PCT/RO/110 which included copies of the request for restoration of the right of priority under PCT Rule 26*bis*.3 previously filed on 03 May 2007.

DISCUSSION

A review of the subject international application shows that a request for

restoration of the right of priority under PCT Rule 26*bis*.3 was filed on 03 May 2007.

Restoration of the right of priority is allowed in the PCT pursuant to PCT Rule 26*bis*.3 (effective 01 April 2007). The priority period must be within fourteen months of the IFD. Applicants must also establish that the failure to file the international application within the priority period occurred in spite of due care required by the circumstances, or was unintentional. A statement of reasons must also be filed within the 14 month period.

Here, the PCT application was filed after 01 April 2007. The priority period of 06 March 2006 is within fourteen months of the IFD of 03 May 2007. Applicant submitted a statement that the delay was unintentional and provided a declaration of Lynda Davis who stated that the provisional information was "inadvertently overlooked." The explanation satisfies the requirements of PCT Rule 26*bis*.3. The $400.00 petition fee has been charged as authorized.

CONCLUSION

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

The Form PCT/RO/105 and Form PCT/RO/110 mailed on 30 July 2007 and 07 August 2007 are hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an IFD of 03 May 2007 and a priority date of 06 March 2006 will be mailed with this decision along with a Notification of Decision on Request to Restore the Right of Priority (Form PCT/RO/159).

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

27 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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3433 BROADWAY ST. N.E.
SUITE 401
MINNEAPOLIS, MN 55413

In re Application of	:	
CROWN IRON WORKS Co.	:	
PCT No.: PCT/US2007/068240	:	DECISION
Int. Filing Date: 04 May 2007	:	
Priority Date: 04 May 2006	:	ON PETITION UNDER
Docket No.: 14023/143/111	:	
For: IMPORVED ETHANOL PROCESS USING PRE-FERMENTATION SOLIDS REMOVAL	:	37 CFR 1.181

This decision is in response to applicant's Petition Under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 31 August 2007.

BACKGROUND

On 04 May 2007, applicant filed international application PCT/US2007/068240 via EFS Web.

On 13 July 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 08 May 2007 and an Invitation to Correct Priority Claim (Form PCT/RO/110).

On 31 August 2007, applicant filed this petition to correct the international filing date.

DISCUSSION

Office records indicate that this application was filed on 04 May 2007. The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 13 July 2007 indicating that the application had an international filing date of 08 May 2007 and the Invitation to Correct Priority Claim (Form PCT/RO/110) issued in error.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), mailed 13 July 2007 is **VACATED**.

The Invitation to Correct Priority Claim (Form PCT/RO/110) mailed 13 July 2007 is **VACATED**.

The application is being returned to the RO/US 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

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ALEXANDRIA, VA 22313-1450
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13 FEB 2008

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COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

In re Application of TC LICENSE LTD.	:	
PCT Application No.: PCT/US2007/068378	:	
Int. Filing Date: 07 May 2007	:	DECISION
Priority Date Claimed: 05 May 2006	:	
Attorney Docket No.: T1142/20066	:	
For: COMPUTER AUTOMATED TAG TEST SYSTEM	:	

This is in response to applicant's "Petition for Restoration of the Right of Priority" filed 08 February 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

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 28 September 2007, the 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).

On 21 November 2007, applicant filed additional drawing sheets in response to Form PCT/RO/107 mailed 28 September 2007.

On 04 December 2007, the RO/US mailed, *inter alia*, a Notification Concerning Later Submitted Parts of an International Application (Form PCT/RO/126) and an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110). Form PCT/RO/126 stated that the international filing date is corrected to 21 November 2007, unless applicant filed an appropriate response within one month of the mailing of Form PCT/RO/126.

On 15 January 2008, the RO/US mailed a Notification Relating to Priority Claim (Form PCT/RO/111), which stated that the priority claim is considered void because the filing date of the priority application did not fall within the period of 12 months prior to the corrected international filing date.

On 08 February 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that applicant never received Form PCT/RO/126.

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 includes an adequate statement describing the system used by the practitioner's firm for recording communications received from the Office (see affidavit of Michael Cornelison, ¶3). The petition states that the correspondence in question was never received and that a search of the practitioner's records indicates that the correspondence was not received (see Cornelison affidavit, ¶¶2,7). Although the petition includes copies of certain docket records, such records fail to include a copy of the firm's master docket report showing all replies docketed for a date of one month from the mail date of Form PCT/RO/126 as required by MPEP 711.03(c).

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

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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12 JUN 2008

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In re Application of TC LICENSE LTD.	:	
PCT Application No.: PCT/US2007/068378	:	
Int. Filing Date: 07 May 2007	:	DECISION
Priority Date Claimed: 05 May 2006	:	
Attorney Docket No.: T1142/20066	:	
For: COMPUTER AUTOMATED TAG TEST SYSTEM	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.181" filed 25 March 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 28 September 2007, the 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).

On 21 November 2007, applicant filed additional drawing sheets in response to Form PCT/RO/107 mailed 28 September 2007.

On 04 December 2007, the RO/US mailed, *inter alia*, a Notification Concerning Later Submitted Parts of an International Application (Form PCT/RO/126) and an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110). Form PCT/RO/126 stated that the international filing date is corrected to 21 November 2007, unless applicant filed an appropriate response within one month of the mailing of Form PCT/RO/126.

On 15 January 2008, the RO/US mailed a Notification Relating to Priority Claim (Form PCT/RO/111), which stated that the priority claim is considered void because the filing date of the priority application did not fall within the period of 12 months prior to the corrected international filing date.

On 08 February 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that applicant never received Form PCT/RO/126.

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 includes an adequate statement describing the system used by the practitioner's firm for recording communications received from the Office (see affidavit of Michael Cornelison, ¶3). The petition states that the correspondence in question was never received and that a search of the practitioner's records indicates that the correspondence was not received (see Cornelison affidavit, ¶¶2,7). Furthermore, the petition includes a copy of the master docket report of the practitioner's firm's showing all replies docketed for a date of one month from the mail date of Form PCT/RO/126. Such docket record shows no response due for the present application. Therefore, it can be concluded with reasonable certainty that applicant never received Form PCT/RO/126.

CONCLUSION

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

The Notification Relating to Priority Claim (Form PCT/RO/111) mailed 15 January 2008 is hereby VACATED.

The application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision. A copy of this decision is being sent to the International Bureau (IB).

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: Notification Concerning Later Submitted Parts of an International Application (Form PCT/RO/126)

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

BARRY A. STEIN
CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PENNSYLVANIA 19103-2212

PCT

NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION

(PCT Rule 20.5(b) and (c), Administrative Instructions, Sections 310 and 310*ter*)

	Date of mailing *(day/month/year)* 16 Jun 2008
Applicant's or agent's file reference T1142/20066	**IMPORTANT NOTIFICATION**
International application No. PCT/US2007/068378	International filing date/Date of first receipt of papers *(day/month/year)* 07 May 2007
Applicant TC LICENSE LTD.	

1. ☒ The applicant is hereby notified 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 this receiving Office on 21 November 2007 that is, on a date later than the date on which one or more elements referred to in Article 11(1)(iii) were first received by this receiving Office.

2. ☐ As the date of receipt of those later submitted parts is within two months from the date of the invitation issued under Rule 20.5(a) (Form PCT/RO/107, dated _____) or, where no such invitation was issued, within two month from the date on which one or more elements of this international application referred to in Article 11(1)(iii) were first received by this receiving Office, and since an incorporation by reference of these later submitted parts was not confirmed in accordance with Rules 4.18 and 20.6(a):

   a. ☐ the later submitted parts are included in the application and since, to date, not all of the requirements of Article 11(1) are fulfilled, this receiving Office will accord an international filing date once all of those requirements are fulfilled (Rule 20.5(b));

   b. ☐ the later submitted parts are included in the application and the international filing date is corrected to the date on which this receiving Office received those later submitted parts, that is, to _____ (corrected international filing date). 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)).

3. ☒ Following issuance of this Form, the applicant has requested that the missing part concerned be disregarded according to Rule 20.5(e) (see paragraph 2.b. above). The international filing date is therefore 07 May 2007

4. ☐ As the date of receipt of those later submitted parts is not within two months from the date of the invitation issued under Rule 20.5(a) (Form PCT/RO/107, dated _____) or, where no such invitation was issued, is not within two months from the date on which one or more elements of this international application referred to in Article 11(1)(iii) were first received by this receiving Office, the later submitted parts will not be included in the application and will not be taken into account for the purposes of international processing.

5. A copy of this notification has been sent to:
   ☐ the International Bureau ☐ 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 Bryan Lin Telephone No. 571-272-3303

Form PCT/RO/126 (April 2007)

UNITED STATES PATENT AND TRADEMARK OFFICE

20 SEP 2007

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

NOVAK, DRUCE & QUIGG, LLP
1300 EYE STREET, NW
SUITE 1000 WEST TOWER
WASHINGTON, D.C. 20005

In re Application of :
PLASCO ENERGY GROUP INC., et al. :
PCT No.: PCT/US07/68396 :
Int. Filing Date: 07 May 2007 : DECISION
Priority Date: 05 May 2006 :
Attorney's Docket No.: 1365-145PCT :
For: A Residue Conditioning System :

This decision is in response to applicant's "Request To Correct Obvious Errors Under PCT Rule 91 And In Accordance With Rule 20.5 And 20.6," filed on 06 July 2007.

BACKGROUND

On 07 May 2007, applicant filed PCT/US07/68396 claiming an earlier priority date of 05 May 2006. Applicants designated the United States Patent and Trademark Office as the Receiving Office (RO/US) and the International Searching Authority (ISA/US).

On 06 July 2007, applicant filed the instant "Request To Correct Obvious Errors Under PCT Rule 91 And In Accordance With Rule 20.5 And 20.6," including Figures 1-17a to replace originally filed Figures 1-14.

DISCUSSION

A. Request To Correct Obvious Errors Under PCT Rule 91

In the instant "Request To Correct Obvious Errors Under PCT Rule 91 And In Accordance With Rule 20.5 And 20.6," applicant requests "to delete all figures currently on file, namely Figures 1-14."

PCT Rule 91.1(c) states in part that:

> The competent authority shall authorize the rectification under this Rule of a mistake, if and only if, it is obvious to the competent authority, that...something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification.

In the present case, the deletion of Figures 1-14 are not rectifications permitted under Rule 91.1(c), as anyone would not immediately realize that nothing else could have been intended than what is proposed as rectification. Specifically, the deletion of entire drawings is not immediately obvious to anyone. Therefore, originally filed Figures 1-14 are part of the instant international application having an international filing date of 07 May 2007.

B. Request To Incorporate By Reference Under PCT Rule 20.5 and 20.6

In the instant "Request To Correct Obvious Errors Under PCT Rule 91 And In Accordance With Rule 20.5 And 20.6," applicant requests to "substitute the attached sheets as new Figures 1-17a."

PCT Rule 20.6 states that:

(a) The applicant may submit to the receiving Office, within the applicable time limit under Rule 20.7, a written notice confirming that an element or part is incorporated by reference in the international application under Rule 4.18, accompanied by:

(i) a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned;

(ii) where the applicant has not already complied with Rule 17.1(a), (b) or (b-bis) in relation to the priority document, a copy of the earlier application as filed;

(iii) where the earlier application is not in the language in which the international application is filed, a translation of the earlier application into that language or, where a translation of the international application is required under Rule 12.3(a) or 12.4(a), a translation of the earlier application into both the language in which the international application is filed and the language of that translation; and

(iv) in the case of a part of the description, claims or drawings, an indication as to where that part is contained in the earlier application and, where applicable, in any translation referred to in item (iii).

(b) Where the receiving Office finds that the requirements of Rule 4.18 and paragraph (a) have been complied with and that the element or part referred to in paragraph (a) is completely contained in the earlier application concerned, that element or part shall be considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office (underlining added).

c) Where the receiving Office finds that a requirement under Rule 4.18 or paragraph (a) has not been complied with or that the element or part referred to in paragraph (a) is not completely contained in the earlier application concerned, the receiving Office shall proceed as provided for in Rule 20.3(b)(i), 20.5(b) or 20.5(c), as the case may be (underlining added).

In the present case proposed replacement Figures 3a, 6a, 13a, 13b, 13c, 15a and 17a have satisfied PCT Rule 20.6(a) because: (i) applicant has provided a statement of incorporation of reference in the Request Form (Form PCT/RO/101); (ii) the replacement drawings are identical to the drawings in the priority documents; (iii) the priority documents have been filed with the United States Patent and Trademark Office; (iv) applicant has indicated where the drawings are to be found in the priority documents; and (v) applicant's request was filed within 2 months from the international filing date of 07 May 2007. Therefore, replacement Figures 3a, 6a, 13a, 13b, 13c, 15a and 17a are incorporated by reference pursuant to PCT Rule 20.6 and under PCT Rule 20.5(b) are part of the instant international application having an international filing date of 07 May 2007.

However, replacement Figures 1-3, 4A, 4B, 5A, 5B and 6-17 are not completely contained in the earlier applications. For example, replacement Figure 1 is allegedly completely contained in Figures 35 and 44 of U.S. Provisional Patent Application 60/797,973. However, a review of Figures 35 and 44 of U.S. Provisional Patent Application 60/797,973 clearly shows that replacement Figure 1 is not completely contained. Similarly, replacement Figures 2, 3, 4A, 4B, 5A, 5B and 6-17 are not completely contained in the earlier applications. Hence, because replacement Figures 1-3, 4A, 4B, 5A, 5B and 6-17 are not completely contained in the earlier applications, under PCT Rule 20.6(c), the above mentioned replacement Figures cannot be incorporated by reference.

PCT Rule 20.5(c) states 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.

Therefore, in the instant international application, because replacement Figures 1-3, 4A, 4B, 5A, 5B and 6-17 cannot be incorporated by reference, under PCT Rule 20.5(c), Figures 1-3, 4A, 4B, 5A, 5B and 6-17 have been included to complete the instant international application and the international filing date has been appropriately changed to 06 July 2007.

It is noted that the submitted replacement drawing sheets have not been numbered in consecutive Arabic numerals (PCT Rule 11.7).

Further, it is noted that under PCT Rule 20.5(e), "the applicant may, in a notice submitted to the receiving Office within one month from the date of the notification under paragraph (c), 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 under that paragraph shall be considered not to have been made."

CONCLUSION

The deletion of originally filed Figures 1-14 is **REFUSED**.

Proposed replacement Figures 3a, 6a, 13a, 13b, 13c, 15a and 17a are **ACCEPTED** as incorporated by reference.

Proposed replacement Figures 1-3, 4A, 4B, 5A, 5B and 6-17 are **ACCEPTED** as missing parts that complete the instant international application.

In accordance with PCT Rule 20.5(c), the International Filing Date has been changed to **06 July 2007**.

If reconsideration on the merits of this decision is desired, a proper response must be filed within ONE (1) MONTH from the mail date of this decision.

This application is being forwarded to the United States Receiving Office for processing in accordance with this decision.

Leonard Smith
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Stefan Staicovici
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CC:
Attachments:

PCT/RO/114
PCT/RO/126

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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
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14 JAN 2008

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NOVAK DRUCE & QUIGG LLP
1300 I STREET, NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

In re Application of	:	
PLASCO ENERGY GROUP INC.	:	
PCT No.: PCT/US07/68396	:	
Int. Filing Date: 07 May 2007	:	DECISION
Requested Priority Date: 05 May 2006	:	
Attorney's Docket No.: 1365-145PCT	:	
For: A Residue Conditioning System	:	

This is in response to the "Request For Reconsideration" filed on 19 October 2007.

DISCUSSION

Applicants request that the receiving Office "delete the original Drawings and ... assign a new filing date to this application."

Regarding applicants' "Request To Delete Original Drawings," under Rule 91.1(c), petitioner is advised that it is not the case that "nothing else could have been intended that the proposed modifications." In particular, it is not obvious that the proposed rectification, the deletion of the drawings, reflects applicants' only possible intent (as opposed, for instance, to some other set of drawings being included). Therefore, it would not be appropriate to delete the drawings as applicant requests.

With regard to applicants' "Request To Substitute Replacement Drawings," petitioner "specifically requests that all drawings provided with the Rule 91 Request filed July 6th be deleted and that certain replacement Drawings be included in the published application." In particular, applicants seek to delete the drawings filed on 06 July 2007 and to enter newly submitted Figures 3, 6, 13, 15 and 17, which are characterized as "equivalent to the Figures as previously accepted by the Receiving Office of the PCT as existing in the provisional applications."However, applicant is advised that the drawings submitted on 19 October 2007 are not timely under PCT Rule 20.7. Therefore, it would not be appropriate to accept them into the international application.

With regard to applicants' "Request To Restore Original Filing Date," applicant requests that "all drawings provided with the Rule 91 Request of July 6th be deleted." This request is timely under PCT Rule 20.5(e). However, in a telephone conference with the undersigned, petitioner indicated that applicants' intent was to preserve (at least) the subject matter of those drawings accepted in the 20 September 2007 as having been incorporated by reference. Therefore, Figs. 1-3, 4A, 4B, 5A, 5B and 6-17, filed on 06 July 2007, are considered not to have been furnished and the correction of the international filing date from 07 May 2007 to 06 July 2007 is considered not to have been made. Drawing Figs. 3a, 6a, 13a, 13b, 13c, 15a and 17a, filed on 06 July 2007, remain in the application.

DECISION

Applicant's request is **GRANTED**, to the extent explained above.

Drawing Figs. 3a, 6a, 13a, 13b, 13c, 15a and 17a, filed on 06 July 2007 and accepted as incorporated by reference, remain in the application.

Figs. 1-3, 4A, 4B, 5A, 5B and 6-17, filed on 06 July 2007, are considered not to have been furnished and the correction of the international filing date from 07 May 2007 to 06 July 2007 is considered not to have been made.

The international filing date of this international application is restored to **07 May 2007**.

Any request for reconsideration must be filed within **ONE (1) MONTH** of the mailing date of this decision.

This application is being forwarded to the United States receiving Office (RO/US) for processing in accordance with this decision.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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cc: International Bureau of WIPO

United States Patent and Trademark Office

2 8 NOV 2008

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In re Application of	:	
PLASCO ENERGY GROUP INC.	:	
PCT No.: PCT/US07/68396	:	
Int. Filing Date: 07 May 2007	:	DECISION
Requested Priority Date: 05 May 2006	:	
Attorney's Docket No.: 1365-145PCT	:	
For: A Residue Conditioning System	:	

This is in response to the "Request For Further Consideration..." filed on 06 February 2008.

DISCUSSION

In response to the Decision mailed on 14 January 2008, applicant requests "(i) reconsideration of the decision not to delete the original drawings, and (ii) that publication again be delayed until a resolution is reached with regard to the Drawings." Petitioner argues that deletion of the original drawings would be appropriate because they "in no way relate to the instant invention and in no way correlate with the specification... the entire set of drawings is clearly and obviously incorrect." Petitioner further argues that the question of whether "nothing else could have been intended is not the point here."

Petitioner is respectfully advised that the United States receiving Office (RO/US) does not have unlimited authority to alter or correct the contents of the international application, but rather its authority is subject to the requirements of the Articles and Regulations under the PCT. Specifically, PCT Rule 91.1(c) provides that

> The competent authority shall authorize the rectification under this Rule of a mistake 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.

Thus, rectification under Rule 91.1 requires a finding that "nothing else could have been intended than the proposed rectification." As explained in the Decision mailed on 14 January 2008, it is not obvious that "nothing else could have been intended" because it is not obvious that the proposed rectification, the deletion of the drawings, reflects applicants' only possible intent (as opposed, for instance, to some other set of drawings being included). Therefore, it would not be appropriate to delete the drawings as applicant requests.

Regarding the request to delay publication, applicant is respectfully advised that responsibility and authority for the publication of the international application lies with the International Bureau and not with the RO/US. Applicant requests that this process be held in abeyance "until a full and final decision is reached with regard to the drawings." It is not clear

whether petitioner is requesting said delay until the present petition is decided, or whether petitioner may be regarding to a "full and final decision" in the sense of a final Agency action.

DECISION

Applicant's request is **DISMISSED**, without prejudice, to the extent explained above.

Any request for reconsideration must be filed within **ONE (1) MONTH** of the mailing date of this decision.

This application is being forwarded to the United States receiving Office (RO/US) for continued processing.

/George Dombroske/
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UNITED STATES PATENT AND TRADEMARK OFFICE

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26 OCT 2007

GARY J. SPEIER
SCHWEGMAN LUNDBERG WOESSNER & KLUTH P.A.
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MINNEAPOLIS MN MINNESOTA 55402

In re Application of:
ISIS PHARMACEUTICALS, INC., et al.
PCT No: PCT/US2007/068404
International Filing Date: 07 May 2007
Priority Date: 05 May 2006
Atty Docket No.: CORE0061WO10
For: COMPOUNDS AND METHODS FOR MODULATING EXPRESSION OF PCSK9

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Request For Corrected International Filing Date" filed 20 September 2007, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 07 May 2007, applicant initiated the present international application by electronically filing a Request (Form PCT/RO/101) and accompanying materials.

On 18 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) identifying the international filing date as 07 June 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 the priority claim was defective for failure to fall within twelve months of the international filing date.

On 20 September 2007, applicant filed the present petition. The petition asserts that the materials initiating this international application were filed electronically on 07 May 2007 and that the international filing date should be corrected to 07 May 2007. The petition also requests that the Form PCT/RO/110 be vacated.

On 28 September 2007, the RO/US issued a Communication (Form PCT/RO/132) informing applicant to disregard the previous Form RO/110.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 07 May 2007. 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 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 13 June 2007. A review of the materials filed 07 May 2007 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 07 May 2007, as requested by applicant in the present petition.[1]

The present international application is considered to be filed within twelve months of applicant's earliest priority claim, 05 May 2006, in that 07 May 2007 was the first date after the expiration of the twelve month deadline on which the RO/US was open for business (05 May 2007 was a Saturday; see PCT Rule 80.5). Accordingly, the Form PCT/RO/110 mailed herein, based as it was on the purported failure of the filing date of the earlier application to fall within twelve months of the present application, is appropriately vacated.

CONCLUSION

Applicant's petition is **GRANTED**.

The international filing date is corrected to **07 May 2007**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 18 September 2007, which identified 07 June 2007 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 **07 May 2007** is issued herewith.

The "Invitation To Correct Priority Claim And/Or Notification Of Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) mailed 18 September 2007 is hereby **VACATED**.

---

[1] It is noted that applicants 07 June 2007 submission of a replacement sheet of the Request seeking to correct a spelling error in the name of one of the inventor's does not affect the filing date.

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

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
GARY J. SPEIER
SCHWEGMAN LUNDBERG WOESSNER & KLUTH P.A.
121 SOUTH EIGHTH STREET
1600 TCF TOWER
MINNEAPOLIS, MINNESOTA 55402

Confirmation No: 1794

PCT

CORRECTED

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.2(c))

Date of mailing *(day/month/year)*	31 Oct 2007

Applicant's or agent's file reference	IMPORTANT NOTIFICATION
CORE0061WO10	

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2007/068404	07 May 2007	05 May 2006

Applicant
ISIS PHARMACEUTICAL, INC.

Title of the invention
COMPOUNDS AND METHODS FOR MODULATING EXPRESSION OF PCSK9

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 18 Sep 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: WT

☐ 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 12 Sep 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	Richard Ross RR
Facsimile No. 571-273-3201	Telephone No. 571-272-3296

Form PCT/RO/105 (April 2007)

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

PCT/US07/68404

International Application No.

07 MAY 2007

International Filing Date

PCTINTERNATIONALRO/USAPPLICATION

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* CORE0061WO10

Box No. I TITLE OF INVENTION

COMPOUNDS AND METHODS FOR MODULATING EXPRESSION OF PCSK9

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.)*

ISIS Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92008
US

Telephone No. 760 931-9200

Facsimile No. 760 603-3820

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.)*

BHANOT, Sanjay
8094 Paseo Arrayan
Carlsbad, CA 92009
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: CA

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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Teleprinter No.

Agent's registration No. with the Office 45,458

☐ **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 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Louis Myers
LOWRIE, LANDO & ANASTASI, LLP
One Main Street, 11th Floor
Cambridge, MA 02142

In re Application of	:	
ALNYLAM PHARMACEUTICALS, INC.	:	
PCT No.: PCT/US07/68655	:	DECISION UNDER
Int. Filing Date: 10 May 2007	:	37 CFR 1.181
Priority Date: 11 May 2006	:	
Agent's File Reference: 14174-135WO1	:	
For: COMPOSITIONS AND METHODS FOR INHIBITING EXPRESSION OF THE PCSK9 GENE	:	

Applicants' 08 August 2007 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 14 May 2007 to 10 May 2007. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 10 May 2007, applicants filed international application PCT/US07/68655 via EFS-Web, which claimed priority to a U.S. application filed 11 May 2006.

On 20 June 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) indicating a 14 May 2007 international filing date.

On 08 August 2007, applicants filed the present petition informing the RO/US that the 14 May 2007 international filing date as indicated on the Form PCT/RO/105 mailed 20 June 2007 is incorrect and should be changed to 10 May 2007.

DISCUSSION

A review of the Electronic Acknowledgement Receipt and the transmittal letter (Form PTO-1382) reveals that international application PCT/US07/68655 was filed in the USPTO on 10 May 2007. Therefore, the 14 May 2007 international filing date as indicated on the Form PCT/RO/105 mailed 20 June 2007 is incorrect. The correct international filing date for the present international application is 10 May 2007.

CONCLUSION

Applicants' 08 August 2007 petition to correct the international filing date from 14 May 2007 to 10 May 2007 is hereby **GRANTED.** The Form PCT/RO/105 mailed 20 June 2007 is **VACATED.**

A copy of this decision along with a corrected Form PCT/RO/105 indicating a 10 May 2007 international filing date are 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

Telephone (571) 272-3284
Facsimile (571) 273-0459

JSF/BL:jf

Enclosures: copy of corrected Form PCT /RO/105.

United States Patent and Trademark Office

30 JUN 2008

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In re Application of :
BEA SYSTEMS, INC. :
PCT No.: PCT/US2007/068686 :
Int. Filing Date: 10 May 2007 : DECISION
Priority Date: 11 May 2006 :
Attorney's Docket No.: BEAS2076WO0 :
For: System And Method For Optimistic Creation Of :
Thread Local Objects In A Virtual Machine Environment :

This is in response to the correspondence filed on 30 April 2008.

BACKGROUND

On 10 May 2007, applicants filed this international application electronically. On 07 May 2008, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 10 May 2007 was mailed to applicants.

DISCUSSION

Counsel states that

> In viewing private PAIR, we do not see that the PCT Request 101 was uploaded and the specification, claims and abstract are dated June 13, 2007 while the other documents submitted with the application are correctly dated May 10, 2007. On May 10, 2007, we filed the above-referenced PCT application via EFS Web. PCT-SAFE software was used to prepare the zip file that contains both the PCT Request 101 and Fee Calculation sheet.
>
> Per a suggestion from the PCT Helpdesk at the USPTO on April 29, 2008 we are resubmitting the zip file to ensure that this PCT application may proceed with processing. Please find attached our zip file as submitted on May 10, 2007, which included pct101.pdf and Fees.pdf. A screen snapshot of the zip file detailing the last date modified is also included for your reference.
>
> If PCT Request form 101 was inadvertently omitted from our May 10, 2007 submission, it is clear from the PCT transmittal form that our intent was to file this application on this date using the USPTO as the RO for this application. Please provide us with Notification of the International Application Number and Filing Date (PCT Form 105) at your earliest convenience.

Applicants are advised that the USPTO (RO/US) has reviewed the electronic record and that the database has been updated to show the correct date for those documents filed on 10 May 2007. Specifically, the Transmittal Letter, PCT Request (Form PCT/RO/101), Fee Calculation Sheet, drawings, description, claims and abstract now are all shown to have been filed on 10 May 2007. As to applicants' request for issuance of a Form PCT/RO/105, it is noted that such a form, reflecting an international filing date of 10 May 2007, was issued on 07 May 2008.

DECISION

Applicants' request is **GRANTED**, to the extent explained above.

The international filing date remains **10 May 2007**.

This international application is being returned to the United States International Searching Authority (ISA/US).

/George Dombroske/
George Dombroske
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cc: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

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12 SEP 2007

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In re Application of	:	
BOARD OF REGENTS, THE UNIVERSITY OF TEXAS	:	
SYSTEM et al.	:	DECISION TO
PCT No.: PCT/US07/68766	:	
Int. Filing Date: 11 May 2007	:	PETITION UNDER
Priority Date: 11 May 2006	:	
Attorney's Docket No.: 019856.0181	:	37 CFR 1.181
For: Fungus-Specific Imaging Agents	:	

This decision is issued in response to applicants' "Request To Rectify An Error Made By The Receiving Office Regarding The Filing Date," filed on 23 July 2007, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 11 May 2007, applicants filed international application PCT/US07/68766, claiming an earliest priority date of 11 May 2006.

On 16 July 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); Notification Of Receipt Of Search Copy (Form PCT/ISA/202) and, Invitation To Correct Priority Claim (Form PCT/RO/110). The documents indicated an international filing date of 16 May 2007.

On 23 July 2007, applicants filed the instant petition indicating that the instant application was filed electronically on 11 May 2007 and as such should be accorded an international filing date of 11 May 2007. Applicants further requested that the forms mailed by the United States Receiving Office (US/RO) on 16 July 2007 be corrected to indicate an international filing date of 11 May 2007.

DISCUSSION

Applicants have provided sufficient evidence to establish that the instant international application was filed with the United States Receiving Office (US/RO) on 11 May 2007. The evidence is in the form of the copy of the "Electronic Acknowledgement Receipt" that indicates a "Receipt Date" of "11-MAY-2007" and, identifies the above-captioned application number and docket number.

Accordingly, the instant application is accorded an international filing date of 11 May 2007. Furthermore, because an earliest priority date of 11 May 2006 is appropriate, the Invitation To Correct Priority Claim (Form PCT/RO/110) is withdrawn. A corrected 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 Receipt Of Search Copy (Form PCT/ISA/202), bearing an international filing date 11 May 2007, is enclosed.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The international filing date in the instant application is **11 MAY 2007**.

The Invitation To Correct Priority Claim (Form PCT/RO/110), mailed 16 July 2007, is **VACATED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

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Office of PCT Legal Administration

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CC:
Attachments:
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Corrected PCT/RO/105
Corrected PCT/ISA/202

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0 8 NOV 2007

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In re Application of	:	DECISION ON
HEFFEZ, GUY	:	
PCT No.: PCT/US2007/68971	:	
Int. Filing Date: 15 May 2007	:	PETITION
Priority Date: N/A	:	
Attorney's Docket No.: L154-PCT	:	
For: METHOD AND SYSTEM... IDENTITY	:	UNDER 37 CFR 1.182

This decision is response to applicant's "request to restore the right of priority" filed on 15 May 2007, which is being treated as a petition under 37 CFR 1.182. Petitioner has paid the $400.00 petition fee.

BACKGROUND

On 15 May 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to U.S. application serial number 11/405,789 filed 18 April 2006.

DISCUSSION

Petitioner has included a request under PCT Rule 26*bis*.1(a) to add the relevant priority claim accompanied by the sheet indicating the priority claim of U.S. application serial number 11/405,789 filed 18 April 2006. Petitioner has provided payment of the $400.00 petition fee.

Petitioner has not included a statement that the entire delay in filing the international application was unintentional. As such, it is inappropriate to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, petitioner's petition under 37 CFR 1.182 is **DISMISSED,** without prejudice.

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) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." Extensions of time are available 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, 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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24 JAN 2008

UNITED STATES PATENT and TRADEMARK OFFICE

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In re Application of	:	DECISION ON
HEFFEZ, GUY	:	
PCT No.: PCT/US2007/68971	:	
Int. Filing Date: 15 May 2007	:	RENWED PETITION
Priority Date: 18 April 2006	:	
Attorney's Docket No.: L154-PCT	:	
For: METHOD AND SYSTEM... IDENTITY	:	UNDER 37 CFR 1.182

This decision is response to applicant's "RENEWED PETITION UNDER 37 CFR 1.182," filed on 17 December 2007.

BACKGROUND

In a decision from this Office on 08 November 2007, the petition filed on 15 May 2007 was dismissed because petitioner did not have the proper statement that the entire delay was unintentional.

On 17 December 2007, petitioner filed a renewed petition, which includes the proper statement.

DISCUSSION

Petitioner has included a request under PCT Rule 26*bis*.1(a) to add the relevant priority claim accompanied by the sheet indicating the priority claim of U.S. application serial number 11/405,789 filed 18 April 2006.

Petitioner has now included a proper statement that "the entire delay in filing the international application was unintentional," in the renewed petition.

CONCLUSION

For the reasons discussed above, petitioner's petition under 37 CFR 1.182 is **GRANTED**. Form PCT/RO/105 mailed 29 October 2007 is hereby **VACATED**.

A new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating that the priority date is **18 April 2006** is being forwarded with a copy of this decision to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision; namely, the addition of priority claim of U.S. application serial number 11/405,789 filed on 18 April 2006.

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Enc: Notification of Decision On Request to Restore Right of Priority (Form PCT/RO/159)

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21 SEP 2007

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In re Application of:
NANOCONDUCTION, INC.
PCT No.: PCT/US2007/069084
International Filing Date: 16 May 2007
Priority Date: 16 May 2006
Atty Docket No.: 62273-5009WO
For: DOUBLE LAYER CARBON NANOTUBE-BASED STRUCTURES AND METHODS FOR REMOVING HEAT FROM SOLID-STATE DEVICES

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Petition To Vacate Form PCT/RO/110" filed 11 September 2007, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 16 May 2007, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. Box No. VI of the Request specifically listed three U.S. provisional applications to which priority was claimed (60/800,935, filed 16 May 2006; 60/874,579, filed 12 December 2006; and 60/908,966, filed 29 March 2007). Box No. VI also indicated that further priority claims were listed in the Supplemental Box. The Supplemental Box of the Request form identified a forth priority claim to U.S. non-provisional application 11/749,128, filed 15 May 2007.

On 24 July 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Correct Priority Claim And/Or Notification Of The Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) indicating that "Item 3" of applicant's multiple priority claims was defective. Specifically, the Form PCT/RO/110 stated that the Request did not provide a filing date for this priority claim, while the priority document itself had a filing date of 15 May 2007.

On 11 September 2007, applicant filed the petition considered herein. The petition asserts that the Request form provided the correct filing date for all of the priority applications listed therein; applicant therefore requests that the Form PCT/RO/110 be vacated.

On 17 September 2007, the RO/US mailed a "Communication In Cases For Which No Other Form Is Applicable" (Form PCT/RO/132) informing applicant to "[d]isregard the RO/US 110).

DISCUSSION

A review of the Request (Form PCT/RO/101) filed by applicant on 16 May 2007 confirms that the Request provides a filing date for each of the four priority applications set forth therein. The filing dates provided on the Request correspond with the filing dates indicated for such priority applications in the USPTO PALM system.

The Form PCT/RO/110 mailed 24 July 2007, based as it was on applicant's purported failure to provide a filing date for one of the priority claims listed in the Request, is therefore appropriately vacated.

CONCLUSION

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

The "Invitation To Correct Priority Claim And/Or Notification Of The Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) mailed 24 July 2007 is hereby **VACATED**.

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

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21 DEC 2007

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In re Application of	:	
The Scripps research Institute	:	DECISION ON
PCT No.: PCT/US2007/069394	:	
Int. Filing Date: 21 May 2007	:	PETITION UNDER
Priority Date: 19 May 2006	:	
Attorney's Docket No.: 10000-0030	:	37 CFR 1.181
For: TREATMENT OF PROTEIN MISFOLDING	:	

This decision is in response to the "PETITION TO CORRECT FILING DATE" filed 18 October 2007. This has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 21 May 2007, applicant filed papers by EFS-Web that were assigned international application number PCT/US2007/069394.

On 30 August 2007, the RO/US mailed the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating that the filing date was 05 June 2007.

On 18 October 2007, applicant filed the current response asking for a corrected "NOTIFICATION OF THE INTERNTIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating that the filing date is 21 May 2007. Applicant included a copy of the "Electronic Acknowledgement Receipt" (Form PTO-N417).

On 31 October 2007, a corrected "NOTIFICATION OF THE INTERNTIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating that the filing date is 21 May 2007 was mailed to applicant.

DISCUSSION

37 CFR 1.6(a)(4) states:

(4) Correspondence may be submitted using the Office electronic filing system only in accordance with the Office electronic filing system

requirements. Correspondence submitted to the Office by way of the Office electronic filing system will be accorded a receipt date, which is the date the correspondence is received at the correspondence address for the Office set forth in Sec. 1.1 when it was officially submitted.

Legal Framework For EFS-Web states, in part:

Thus, the filing date of an application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of your newly filed application.

The electronic acknowledgement receipt present in the application file establishes that the instant application was submitted on 21 May 2007, as indicated on the corrected "NOTIFICATION OF THE INTERNTIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) mailed 31 October 2007.

CONCLUSION

Applicant's petition to correct the international filing date to 21 May 2007 is hereby **GRANTED**.

The "INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY" mailed the 30 August 2007 is hereby **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.

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07 JAN 2008

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In re Application of	:	
RIC INVESTMENTS, LLC	:	
PCT No.: PCT/US07/69591	:	DECISION ON
Int. Filing Date: 23 May 2007	:	REQUEST FOR REFUND
Priority Date: 25 May 2006	:	UNDER 37 CFR 1.446
Agent's File Reference: 07-138-WO	:	
For: AIRWAY ADAPTOR WITH OPTICAL PRESSURE TRANSDUCER AND METHOD OF MANUFACTURING A SENSOR COMPONENT	:	

This decision is in response to applicant's communication filed 02 November 2007. 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 23 May 2007, applicant filed international application PCT/US07/69591. Applicant claimed priority to a U.S. provisional application filed 25 May 2006 as well as to a U.S. non-provisional application filed 22 May 2007. The non-provisional application was not identified by the title, name of applicant(s) or the agent's file reference number.

On 08 August 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 Box No. VI, item (2) of the PCT Request did not include the application number.

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 title and name of the applicant(s). 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.**

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 Decision 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.

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17 SEP 2007

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In re Application of	:	
TOUCHDOWN TECHNOLOGIES, INC. et al.	:	DECISION ON
PCT No.: PCT/US07/69896	:	
Int. Filing Date: 29 May 2007	:	PETITION
Priority Date: Not claimed	:	
Attorney's Docket No.: TDTECH-007PCT	:	UNDER 37 CFR 1.181
For: A Semiconductor Testing Device With Elastomer Interposer	:	

This decision is in response to applicants' "Response To Notification Concerning Payment of Prescribed Fees," filed 14 August 2007, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 29 May 2007, applicants filed international application PCT/US07/69896. The application included a $300 transmittal fee, a $300 search fee, a $1,086 international fee and a $60 supplemental international fee.

On 09 August 2007, the United States Receiving Office (US/RO) mailed a Notification Concerning Payment of Fees (Form PCT/RO/102) and a Notification of the International Application Number and International Filing Date (Form PCT/RO/105). Specifically, the Notification Concerning Payment of Fees (Form PCT/RO/102) indicated that an additional $700 was due for payment ($700 for the international search fee).

On 14 August 2007, applicants filed the instant "Response To Notification Concerning Payment of Prescribed Fees," stating that, because the Transmittal Letter filed on 29 May 2007 indicated that prior U.S. application Serial No. 11/754,818 had been filed, under 37 CFR 1.445(a)(2) the required search fee should be reduced from $1,000 to $300. Applicants concluded that no further fees are required in the instant international application.

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 U.S. national application that applicants refer to in the Transmittal Letter (11/754,818) was filed on 29 May 2007 and was identified by application number. However, as noted above, 37 CFR 1.445 (a)(2)(i) requires that the U.S. national application be a prior application. In this case, U.S. national application Serial No. 11/754,818 was filed on 29 May 2007, which is the same day on which the instant international application was filed. As such, U.S. national application Serial No. 11/754,818 cannot be considered to be a prior United States national application as required under 37 CFR 1.445 (a)(2)(i). Therefore, the conditions of 37 CFR 1.445 have not been satisfied.

Because the conditions of 37 CFR 1.445 have not been satisfied, applicants are not entitled to the reduced search fee of $300, but rather are required to pay the full fee of $1,000. Therefore, as of date, applicant owes $700 for the international filing fee.

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.

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16 MAR 2009

United States Patent and Trademark Office

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In re Application of	:	
Touchdown Technologies, Inc.	:	DECISION
PCT No.: PCT/US2007/069896	:	
Int. Filing Date: 29 May 2007	:	ON
Priority Date: Not claimed	:	
Attorney's Docket No.: TDTECH-007PCT	:	PETITION
For: A Semiconductor Testing Device	:	
With Elastomer Interposer	:	

This is in response to applicants' "Response To Invitation To Pay Prescribed Fees Together With Late Payment Fee" filed on 15 October 2007, which is being treated as a renewed petition under 37 CFR 1.181.

DISCUSSION

In a Decision mailed on 17 September 2007, the petition filed on 14 August 2007 was dismissed, without prejudice, because

> *In this case, the prior U.S. national application that applicants refer to in the Transmittal Letter (11/754,818) was filed on 29 May 2007 and was identified by application number. However, as noted above, 37 CFR 1.445(a)(2)(i) requires that the U.S. national application be a prior application. In this case, U.S. national application Serial No. 11/754,818 was filed on 29 May 2007, which is the same day on which the instant international application was filed. As such, U.S. national application Serial No. 11/754,818 cannot be considered to be a prior United States national application as required under 37 CFR 1.445(a)(2)(i). Therefore, the conditions of 37 CFR 1.445 have not been satisfied.*

In response, petitioner argues that "the prior United States application was specifically called out by a serial number when requesting the reduced fee under section 1.445. It is simply impossible to obtain and list a serial number if the application was not indeed a previous application." As noted in the Decision mailed on 17 September 2007, the instant international application and U.S. application 11/754,818 were filed on the same day, 29 May 2007. Petitioner is respectfully advised that the term "prior" application is deemed to refer to an application filed at least one day prior to the application in question. As such, even if the U.S. application was filed earlier on the same day as the international application, the international application would not be entitled to the benefit of 37 CFR 1.445(a)(2)(i) then in effect.

Petitioner further argues that "the period to pay the $700 without the late fee should have expired on October 17, 2007." PCT Rule 16bis.1(d) provides that

> *(d) Any payment received by the receiving Office before that Office sends the invitation under paragraph (a) shall be considered to have been received before the expiration of the time limit under Rule 14.1(c), 15.4 or 16.1(f), as the case may be.*

In this case, the $700.00 balance of the search fee was received on 15 October 2007, the same date that the Invitation To Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) was mailed. This payment is being regarded as having been made prior to the mailing of the Invitation. As such, the $350.00 late fee is not required, and it is being refunded.

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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In re Application of:	:	
HOBBS, Gregg K.	:	DECISION ON PETITION
PCT No: PCT/US2007/070014	:	(37 CFR 1.181)
International Filing Date: 31 May 2007	:	
Priority Date Claimed: 30 May 2006	:	
Atty Docket No.: 84-06WO	:	
For: VIBRATIONAL TEST SYSTEM ENCLOSURE	:	

This decision is issued in response to the "Response To Invitation To Correct Priority Claim" filed 12 October 2007, treated herein as a petition under 37 CFR 1.181 to change the international filing date from 31 May 2007 to 30 May 2007. No petition fee is required.

BACKGROUND

The United States Receiving Office (RO/US) accorded an international filing date of 31 May 2007 to the above-identified international application, which was filed electronically using the EFS-WEB system.

On 13 August 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 31 May 2007, and an "Invitation to Correct Priority Claim" (Form PCT/RO/110) indicating that the priority claim was defective for failure to fall within twelve months of the international filing date.

On 12 October 2007, applicant filed the present petition. The petition asserts that the materials initiating this international application were filed electronically at 11:36 pm Mountain Time on 30 May 2007, with a "Certificate of EFS-WEB Filing" dated 30 May 2007, and that the proper international filing date is therefore 30 May 2007.

DISCUSSION

Applicant asserts that the present international application was filed electronically at 11:36 pm Mountain Time on 30 May 2007; this corresponds to 1:36 am on 31 May 2007 in the Eastern Standard Time Zone where the USPTO is located. 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. The Acknowledgement Receipt here confirms that the application materials were filed at 1:36 am Eastern Time on 31 May 2007.

Article 11(1) of the PCT states in part (emphasis added):

The receiving Office shall accord as the international filing date ***the date of receipt*** *of the international application ....*

Thus, the filing date of an international application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of a newly filed application. There is no "certificate of transmission" practice for new international application e-filings. See 37 CFR 1.8(a)(2)(i)(D).

Based on the above, the correct filing date for the present international application is 31 May 2007, the date in the Eastern Standard Time zone on which the application was received in the USPTO and the date set forth on the Acknowledgement Receipt issued in response to applicant's filing. Applicant's request to change the international filing date from 31 May 2007 to 30 May 2007 is therefore appropriately dismissed.

CONCLUSION

The petition under 37 CFR 1.181 to change the international filing date is **DISMISSED** without prejudice.

The international filing date remains **31 May 2007**.

The priority claim dated 30 May 2006 remains defective for failure to fall within twelve months of the international filing date.

This application is being referred to the United States Receiving Office for further processing in accordance with this decision.

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cc: International Bureau of WIPO

0 9 JAN 2008

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In re Application of	:	
MOORE	:	DECISION ON PETITION
PCT No.: PCT/US07/70997	:	
Int. Filing Date: 12 June 2007	:	UNDER 37 CFR 1.182
Priority Date: 01 June 2006	:	
Attorney's Docket No.: 8379/87994/PC	:	
For: PURCHASE OPTION-BASED EMERGENCY SUPPLIES PROVISIONING METHOD	:	

This decision is response to applicant's "REQUEST FOR RESTORATION OF PRIORITY CLAIM" filed in the United States Patent and Trademark Office (USPTO) on 24 October 2007. As authorized the $400.00 petition fee will be charged to deposit account number 06-1135.

BACKGROUND

On 12 June 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US). The application claimed priority to U.S. application 11/421,694 filed 01 June 2006. Box VI-1-1 of the filed PCT Request form indicated the filing date of the priority application as 12 June 2006.

On 16 August 2007, applicant was mailed an "Invitation to Correct Priority Claim" (Form PCT/RO/110).

On 24 October 2007, applicant filed the present request which is being treated pursuant to 37 CFR 1.182.

DISCUSSION

The interim procedures for the restoration of priority claims filed prior to 09 November 2007 are detailed on the USPTO website. Consistent with these interim procedures, applicant has presently included a statement that the delay in filing the international application was unintentional. In addition, applicant has provided payment of the $400.00 petition fee. However, applicant has not provided a statement of reasons for the delay pursuant to PCT Rule 26*bis*.3(b)(ii) within 14 months of the priority date of 01 June 2006. Applicant's states that, "the filing date of the PCT application (12 June 2007) is within two months from the expiration of the priority period (1 June 2007)." However, the filing of 12 June 2007 did not contain any

statement as to the unintentional delay in making the proper priority claim. This statement was not provided until the filing of the present request on 24 October 2007. This is outside the 14 month period which expired on 01 August 2007.

Applicant contends that the listing of a priority date of 12 June 2006 was based on an Official Filing Receipt for the priority application, U.S. patent application number 11/421,694. However, a review of USPTO records shows that applicant filed a request for corrected filing receipt with the Office in application 11/421,694 on 10 October 2006, and was thus clearly aware of the correct filing date of application 11/421,694 a full eight months before the filing of the international application.

CONCLUSION

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

A copy of Form PCT/RO/ 158 accompanies this decision.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

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BERKELEY CA CALIFORNIA 94720

In re Application of: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	:	DECISION ON PETITION
PCT No: PCT/US2007/071054	:	(37 CFR 1.181)
International Filing Date: 12 June 2007	:	
Priority Date: 12 June 2006	:	
Atty Docket No.: IB-2289 PCT	:	
For: OPTIMIZATION OF CARBON COATINGS	:	

This decision is issued in response to the "Petition Requesting A Corrected Filing Receipt" filed 30 June 2008, treated herein 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 12 March 2008, 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 13 June 2007.

On 30 June 2008, applicant filed the present petition. The petition asserts that the materials initiating this international application were filed electronically on 12 June 2007 and that the international filing date should therefore be corrected to 12 June 2007.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 12 June 2007. 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 the Acknowledgement Receipt generated with respect to the original application filing, and such Acknowledgement Receipt confirms the receipt of the initial application materials in the USPTO on 12 June 2007, such materials including the specification, claims, abstract, drawings, the Request Form (PCT/RO/101), and fees. A review of the materials filed 12 June 2007 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 12 June 2007, as requested by applicant in the present petition.[1]

CONCLUSION

Applicant's petition is **GRANTED**.

The international filing date is corrected to **12 June 2007**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 12 March 2008, which identified 13 June 2007 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 **12 June 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
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau of WIPO

[1] It is noted that, on 13 June 2008, applicants filed a revised Request (Form PCT/RO/101) which included a corrected signature and an additional page that identified three additional applicant/inventors; however, the original Request (Form PCT/RO/101) filed 12 June 2007 included all requirements with respect to according an international filing date.

27 JAN 2009

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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John A. O'Toole
General Mills, Inc.
Number One General Mills Blvd.
P.O. Box 1113
Minneapolis, Minnesota 55440

In re Application of:
General Mills, Inc.
PCT No.: PCT/US2007/071112
Receipt Date: 14 January 2008
Priority Date Claimed: None
Attorney's Docket No.: 6896WO
For: MICROWAVE BATTER PRODUCT

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition for PCT Filing" pursuant to 37 CFR 1.181 filed 18 December 2008. No petition fee is required.

BACKGROUND

On 13 June 2007, applicant filed materials intended to initiate the present international application. These materials were assigned application number PCT/US2007/071112. The materials filed 13 June 2007 included a Request (Form PCT/RO/101) and a Transmittal Letter. The Request form included a priority claim to U.S. provisional application number 60/804,968, filed 16 June 2006.

On 09 November 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Correct The Purported International Application" (Form PCT/RO/103) which stated that the application materials filed 13 June 2007 had not been accorded an international filing date because the filed materials did not contain a part which on its face appears to be a description or a part which on its face appears to be a claim or claims." The Form PCT/RO/103 indicated that the date on which a correction of this defect was received would be the international filing date for the present application, if such a response was received within two months of mail date of the Form PCT/RO/103.

On 07 January 2008, the RO/US mailed a "Notification That The Purported International Application Is Not And Will Not Be Treated As An International Application" (Form PCT/RO/104) which stated that the purported international application will not be treated as an international application since applicant failed to reply to the Invitation To Correct The Purported International Application" (Form PCT/RO/103) mailed 09 November 2007.

On 14 January 2008, applicant filed "Response to PCT Invitation to Correct Purported International Application" which included a specification, abstract, claims, and drawing sheets.

On 18 December 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A. Petition under 37 CFR 1.181 to Vacate Form PCT/RO/104

Applicant states in the present petition that "prior to the expiration set forth in the initial invitation (Form PCT/RO/103) to correct, the PCT branch sent a notification (Form PCT/RO/104) that the purported international application will not be treated as an international application due to a failure to respond." Applicant's assertion is correct. Accordingly, the Notification That The Purported International Application Is Not And Will Not Be Treated As An International Application" (Form PCT/RO/104) mailed 07 January 2008 is hereby VACATED.

B. Response to Form PCT/RO/103

As noted above, the application as filed on 13 June 2007 did not include a description or claims, both of which are required in order for an application to be accorded an international filing date (see PCT Article 11). The description and claims were first filed in the present application on 14 January 2008, as part of the "Response to PCT Invitation to Correct Purported International Application" considered herein. Because these materials were submitted within the time limits set forth in PCT Rule 20.7, these materials will be made of record in the present application, with the international filing date being 14 January 2008 (see PCT Rule 20.2).

Because the international filing date for the present application, 14 January 2008, is more than twelve months after the claimed priority date of 16 June 2006, such priority claim is defective (see PCT Rule 4.10).

CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED. The specification and claims filed with the present petition will be entered into the present application.

The international filing date is 14 January 2008.

The Notification That The Purported International Application Is Not And Will Not Be Treated As An International Application (Form PCT/RO/104) mailed 07 January 2008 is hereby VACATED.

The priority claim is defective for failure to fall within twelve months of the international filing date.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 14 January 2008; (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 14 January 2008; 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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27 MAR 2008

MATTHEW SARLES
TOWNSEND AND TOWNSEND AND CREW LLP
1200 17TH STREET, SUITE 2700
DENVER CO COLORADO 80202

In re Application of:
MATHESON TRI-GAS, INC.
PCT No.: PCT/US2007/071134
International Filing Date: 13 June 2007
Priority Date Claimed: 16 June 2006
Atty Docket No.: 26164-4-PC
For: HIGH FLOW SURFACE MOUNT COMPONENTS

DECISION

This decision is issued in response to applicant's letters dated 13 June 2007 and 21 March 2008 requesting that the second specification filed herein be substituted for the originally filed specification. No petition fee is required.

BACKGROUND

On 13 June 2007, applicant filed materials to initiate the present international application using the EFS-Web electronic filing system. The application materials were assigned application number PCT/US2007/071134. Among the items included with the original submission were a 14 page description (including 60 numbered paragraphs), 5 pages of claims (including 31 numbered claims), 1 page of abstract, and 8 sheets of drawings.

Later on 13 June 2007, applicant submitted the first letter considered herein, accompanied by a new specification. The letter states that the original specification was an older version, and requests that the second specification be substituted for the original specification. The second specification submitted by applicant includes a 14 page description (including 62 numbered paragraphs), 5 pages of claims (including 31 numbered claims), and 1 page of abstract.

On 21 March 2008, applicant submitted the second letter considered herein. This letter confirms that the second specification submitted by applicant on 13 June 2007 is a consolidation of the materials contained in both specifications, and that nothing which was present in the first specification has been removed from the second specification.

DISCUSSION

Applicant's 13 June 2007 requests that the United States Receiving Office (RO/US) replace the first specification filed 13 June 2007 with the second specification filed on such date. Applicant's 21 March 2008 letter indicates that the second specification is a consolidation of the

two specifications filed on 13 June 2007 and that, while additional material was added to the second specification, no information was removed from the first specification.

Based on applicant's statements in the 13 June 2007 letter and a review of the filed materials, the second specification is accepted as a consolidation of all the material included in the two descriptions filed on 13 June 2007. Accordingly, the second description will be used as the specification of record (i.e., description, claims, and abstract) for the present international application, as requested by applicants.[1]

For clarity, the second specification includes a description containing 62 numbered paragraphs (the description in the first specification contained only 60 paragraphs), and the first paragraph in the second specification is entitled "Priority Claim" and refers to the U.S. priority application (the first specification did not include this first paragraph, beginning instead with the section entitled "Background of the Invention").

CONCLUSION

Based on the above, applicant's request that the RO/US use the second specification filed 13 June 2007 as the specification of record herein is **GRANTED**.

The second specification (i.e., description, claims, and abstract), which applicant has confirmed includes all the material present in the originally filed description (plus additional material) and which therefore is a consolidation of the two specifications filed on 13 June 2007, will be included in the international application as the specification of record.

The drawings of record remain the eight sheets of drawings filed on 13 June 2007.

The 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.

Richard M. Ross
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Office of PCT Legal Administration
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cc: International Bureau at WIPO

[1] It is noted that the 5 pages of claims and 1 page of abstract included with the second specification appear to be identical to those originally submitted.

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27 MAR 2008

MATTHEW SARLES
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1200 17TH STREET, SUITE 2700
DENVER CO COLORADO 80202

In re Application of:	:	
MATHESON TRI-GAS, INC.	:	DECISION
PCT No.: PCT/US2007/071134	:	
International Filing Date: 13 June 2007	:	
Priority Date Claimed: 16 June 2006	:	
Atty Docket No.: 26164-4-PC	:	
For: HIGH FLOW SURFACE MOUNT COMPONENTS	:	

This decision is issued in response to applicant's letters dated 13 June 2007 and 21 March 2008 requesting that the second specification filed herein be substituted for the originally filed specification. No petition fee is required.

BACKGROUND

On 13 June 2007, applicant filed materials to initiate the present international application using the EFS-Web electronic filing system. The application materials were assigned application number PCT/US2007/071134. Among the items included with the original submission were a 14 page description (including 60 numbered paragraphs), 5 pages of claims (including 31 numbered claims), 1 page of abstract, and 8 sheets of drawings.

Later on 13 June 2007, applicant submitted the first letter considered herein, accompanied by a new specification. The letter states that the original specification was an older version, and requests that the second specification be substituted for the original specification. The second specification submitted by applicant includes a 14 page description (including 62 numbered paragraphs), 5 pages of claims (including 31 numbered claims), and 1 page of abstract.

On 21 March 2008, applicant submitted the second letter considered herein. This letter confirms that the second specification submitted by applicant on 13 June 2007 is a consolidation of the materials contained in both specifications, and that nothing which was present in the first specification has been removed from the second specification.

DISCUSSION

Applicant's 13 June 2007 requests that the United States Receiving Office (RO/US) replace the first specification filed 13 June 2007 with the second specification filed on such date. Applicant's 21 March 2008 letter indicates that the second specification is a consolidation of the

two specifications filed on 13 June 2007 and that, while additional material was added to the second specification, no information was removed from the first specification.

Based on applicant's statements in the 13 June 2007 letter and a review of the filed materials, the second specification is accepted as a consolidation of all the material included in the two descriptions filed on 13 June 2007. Accordingly, the second description will be used as the specification of record (i.e., description, claims, and abstract) for the present international application, as requested by applicants.[1]

For clarity, the second specification includes a description containing 62 numbered paragraphs (the description in the first specification contained only 60 paragraphs), and the first paragraph in the second specification is entitled "Priority Claim" and refers to the U.S. priority application (the first specification did not include this first paragraph, beginning instead with the section entitled "Background of the Invention").

CONCLUSION

Based on the above, applicant's request that the RO/US use the second specification filed 13 June 2007 as the specification of record herein is **GRANTED**.

The second specification (i.e., description, claims, and abstract), which applicant has confirmed includes all the material present in the originally filed description (plus additional material) and which therefore is a consolidation of the two specifications filed on 13 June 2007, will be included in the international application as the specification of record.

The drawings of record remain the eight sheets of drawings filed on 13 June 2007.

The 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.

Richard M. Ross
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cc: International Bureau at WIPO

[1] It is noted that the 5 pages of claims and 1 page of abstract included with the second specification appear to be identical to those originally submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

14 AUG 2007

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Richard E. Campbell
Procopio Cory Hargreaves & Savitch LLP
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San Diego, California 92101-4469

In re Application of: Nextwave Broadband Inc.
PCT Application No.: PCT/US2007/071472
International Filing Date: 18 June 2007
Priority Date: 07 July 2006
Attorney Docket No.: 113667005PCT
For: METHOD AND SYSTEM FOR GENERIC MULTIPROTOCOL CONVERGENCE OVER WIRELESS AIR INTERFACE

DECISION ON PETITION UNDER 37 CFR 1.182

Applicant's "Communication" filed 28 June 2007 is being treated as a petition under 37 CFR 1.182. Applicant is requesting to change the searching authority for the above-identified application to the European Patent Office (ISA/EP). Deposit Account No. 50-2075 will be charged the required $1,759.00 additional search fee and the required $400.00 petition fee as authorized.

On 18 June 2007, applicant filed international application PCT/US2007/071472, which claimed priority of an earlier U.S. non-provisional application filed 07 July 2006. Box No. VII-1 of the PCT Request indicated the United States Patent and Trademark Office (USPTO) (ISA/US) as the chosen International Searching Authority.

The records of the United States Receiving Office (RO/US) show that processing of the search copy of the international application has not begun. Since the RO/US has not transmitted the search copy of the international application to the ISA/US, applicant's petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision, including preparing the search copy of this application and forwarding the search copy of this application to the European Patent Office in its capacity as the International Searching Authority together with a copy of this decision.

Tamara Graysay
PCT Special Program Examiner
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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

04 MAR 2009

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GUNNAR G. LEINBERG
NIXON PEABODY LLP
CLINTON SQUARE
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ROCHESTER NY NEW YORK 14603-1051

In re Application of: BLUETIE, INC.
PCT No: PCT/US2007/071524
International Filing Date: 19 June 2007
Priority Date: 23 October 2006
Atty Docket No.: 99425/191
For: SYSTEM AND METHOD FOR STORING USER DATA IN A CENTRALIZED DATABASE AND INTELLIGENTLY REDUCING DATA ENTRY

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Petition For Correction Of International Filing Date Under 37 CFR 1.181" filed 25 February 2009. 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 05 September 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 18 June 2007.

On 25 February 2009, applicant filed the present petition. The petition asserts that the materials initiating the present international application were filed electronically on 19 June 2007 and that the international filing date should therefore be corrected to 19 June 2007.

DISCUSSION

Applicant asserts that the present international application was filed electronically in the USPTO on 19 June 2007. 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 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 19 June 2007. A review of the materials filed 19 June 2007 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 19 June 2007, as requested by applicant in the present petition.

CONCLUSION

Applicant's petition is **GRANTED**.

The international filing date is corrected to **19 June 2007**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 05 September 2007, which identified 18 June 2007 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 **19 June 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

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0 3 AUG 2007

Peter J. Butch III
Synnestvedt Lechner & Woodbridge, LLP
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Princeton, NJ 08542-0592

In re Application of :
BELL, et al. : DECISION ON PETITION
PCT No.: PCT/US07/71717 :
Int. Filing Date: 21 June 2007 : UNDER 37 CFR 1.182
Priority Date: 20 June 2006 :
Attorney's Docket No.: P32,030-C PCT :
For: SYSTEMS AND METHODS FOR USE OF :
LUMINESCENT COMPOUNDS IN DISEASE :
TREATMENT AND MEDICAL IMAGING :

This decision is response to applicant's "REQUEST FOR RESTORATION ON A RIGHT OF PRIORITY UNDER PCT RULE 26*bis*.3(a)" filed in the United States Patent and Trademark Office (USPTO) on 21 June 2007. The petition is being treated under 37 CFR1.182. As authorized the $400.00 petition fee will be charged to deposit account number 19-5425.

BACKGROUND

On 21 June 2007, applicant filed a Request in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to U.S. application serial number 60/776,015 filed 20 June 2006 and a request to add a priority claim of U.S. application serial number 60/776,015 under PCT Rule 26*bis*.1(a).

DISCUSSION

Applicant has presently included a statement that the entire delay in filing the international application was unintentional. In addition, applicant has included a request under PCT Rule 26*bis*.1(a) to add the relevant priority claim accompanied by substitute sheets indicating the priority claim of U.S. application serial number 60/776,015 filed 20 June 2006. 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**.

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 60/776,015 filed 20 June 2006; (2) processing of applicant's substitute sheets and (3) 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 20 June 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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07 DEC 2007

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In re Application of:
SMITHKLINE BEECHAM CORPORATION
PCT No: PCT/US2007/071854
International Filing Date: 22 June 2007
Priority Date: 23 June 2006
Atty Docket No.: PU62030
For: PROLYL HYDOXYLASE INHIBITORS

DECISION

This decision is issued in response to the "Request To Correct International Filing Date" filed 24 October 2007. No petition fee is required.

BACKGROUND

On 22 June 2007, applicant initiated the present international application by electronically filing a Request (Form PCT/RO/101) and accompanying materials.

On 10 August 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) identifying the international filing date as 22 June 2007.

On 03 October 2007, the International Bureau (IB) mailed a "Communication In Cases For Which No Other Form Is Applicable" (Form PCT/IB/345) indicating that the Record Copy of the international application identified the international filing date as 31 May 2007.

On 24 October 2007, applicant filed the "Request To Correct International Filing Date" considered herein. The submission requests that the RO/US inform the IB that the correct international filing date for the present application is 22 June 2007.

DISCUSSION

A review of the application file and the Form PCT/RO/105 mailed by the RO/US confirms that the correct international filing date for the present application is 22 June 2007. However, the first page of the Record Copy forwarded to the IB incorrectly identified the international filing date as 31 May 2007. Mailed herewith is a revised first page of the Record Copy properly identifying the international filing date as 22 June 2007, a copy of which will be forwarded to the IB to confirm the correct international filing date of 22 June 2007.

CONCLUSION

Applicant's "Request To Correct The International Filing Date" is **GRANTED** to the extent that the previously accorded international filing date of 22 June 2007 will be confirmed with the International Bureau.

Mailed herewith is a revised first page of the Record Copy properly identifying the international filing date as 22 June 2007.

A copy of this decision and the revised first page of the Record Copy will be forwarded to the International Bureau.

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Telephone: (571) 272-3296
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cc: International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

16 JAN 2008

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TRENT BAKER
BAKER & ASSOCIATES PLLC
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In re Application of	:	
SE2 Labs	:	DECISION
PCT No.: PCT/US2007/072339	:	
Int. Filing Date: 28 June 2007	:	
Priority Date: 29 June 2006	:	
Attorney's Docket No.: 1930.16	:	
For: SYSTEMS AND METHODS FOR EXTERNAL ELECTRICAL COMPONENT INTERCONNECTION	:	

This decision is response to applicant's "REQUEST TO RESTORE RIGHT OF PRIORITY" filed in the United States Patent and Trademark Office (USPTO) on 17 September 2007.

BACKGROUND

On 13 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 an international filing date of 28 June 2007 and a priority date of 29 June 2006.

On 13 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, *inter alia*, that the filing date indicated for item (1) in Box No. VI does not fall within the period of 12 months preceding the international filing date.

On 17 September 2007, applicant filed the instant "REQUEST TO RESTORE RIGHT OF PRIORITY".

DISCUSSION

The request appears to be made pursuant to PCT Rule 26bis.3. The interim procedures for the restoration of priority claim are detailed on the USPTO website and include the filing of a petition under 37 CFR 1.182. Accordingly, the submission has been treated as a petition under 37 CFR 1.182. However, such a request is only applicable in instances where the international application has an international filing date which is later than the date on which the priority

period expired but within the period of two months from that date. Here, the priority date is the same date as the international filing date. Accordingly, the petition under 37 CFR 1.182 is inapplicable.

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. 11/770,304 has the same filing date as the present international application, U.S. Application No. 11/770,034 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).")

CONCLUSION

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

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BOULDER, CO 80302

In re Application of FLUXTONE, INC. :
PCT Application No.: PCT/US2007/72438 :
Int. Filing Date: 24 December 2007 :
Priority Date Claimed: 30 June 2006 : DECISION
Attorney Docket No.: 350010001WO :
For: SYSTEM, METHOD AND APPARATUS :
FOR ADJUSTING AN OUTPUT OF A :
TRANSDUCER :

This is in response to applicant's "Petition for Reconsideration of Response to Invitation to Correct Purported International Application Under 37 C.F.R. §1.182 and in the Alternative, Petition to Rectify Obvious Mistakes Under 37 C.F.R. § 91.1" filed 14 March 2008.

BACKGROUND

On 29 June 2007, applicant filed purported international application papers with the United States Receiving Office (RO/US). The submission did not include a description, claims, drawings, or abstract.

On 09 November 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103).

On 24 December 2007, applicant filed a response to the 09 November 2007 invitation, including a statement that the missing elements are incorporated by reference in the international application.

On 19 February 2008, the RO/US mailed a Notification on Decision of Confirmation of Incorporation by Reference of Element or Part (Form PCT/RO/114) and a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which indicated that the requirements of PCT Rule 20.6(a) were not met and that the international filing date has been corrected to 24 December 2007 in accordance with PCT Rule 20.3(b)(i).

On 14 March 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

PCT Rule 20.6(a)(i) provides that a confirmation of incorporation by reference must be accompanied by "a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned."

In the present case, the 24 December 2007 submission included claim, drawing, and abstract sheets that embodied the entire claims, drawings, and abstract as contained in claimed priority application number US 11/768,484, filed 26 June 2007. However, the submitted description sheets did not embody the entire element as contained in the earlier application. In particular, paragraph number 0001 recites priority application information which was not present in the description as contained in the earlier application.

The petition states that the content of paragraph number 0001 as submitted on 24 December 2007 is entirely contained in application number US 11/768,484. However, PCT Rule 20.6(a)(i) requires applicant to submit the sheets embodying the entire element (i.e. the description, in the present case) as contained in the earlier application. The 24 December 2007 submission did not include the description as contained in application number US 11/768,484.

The petition further states that the text in paragraph number 0001 was already contained in the international application on 29 June 2007 by virtue of the priority claim and the statement of incorporation by reference included in the Request (Form PCT/RO/101). However, even assuming *arguendo* that the text added to paragraph number 0001 was present elsewhere in the international application papers on 29 June 2007, PCT Rule 20.6(a)(i) nevertheless requires applicant to submit sheets embodying the entire missing element as contained in the earlier application. Furthermore, the statement of incorporation by reference contained in the Request is conditioned upon proper confirmation under PCT Rule 20.6. In the present case, such proper confirmation was not made with respect to the description.

The petition further states that the text added to paragraph number 0001 is not substantive material, citing paragraphs 49B and 49C of the PCT Receiving Office Guidelines. However, the text added to paragraph number 0001 cannot be reasonably deemed a correction of formal defects as stated in paragraph 49B or the result of an effort to comply with the physical requirements of PCT Rule 11, e.g. different numbering of pages, paragraphs, or references, as stated in paragraph 49C. The claim sheets in the present application provide an example of a non-substantive change which is contemplated by paragraphs 48B and 49C. For instance, the first sheet of claims in the present application is numbered page 15 and contains 5 claims, while the first sheet of claims in the priority application is numbered page 16 and contains 4 claims. Because the respective text of the claim sets is identical, the discrepancy in page numbering and claim location is not considered to be a change to what was contained in the earlier application. On the contrary, the text added to paragraph number 0001 is not present in paragraph 0001 of the description in the priority application and is deemed a substantive modification.

The petition further states that if the text added to paragraph number 0001 is considered substantive, applicant complied with PCT Rule 20.6 by submitting nothing more than what is contained in the priority application. However, PCT Rule 20.6(a)(i) requires applicant to submit not only subject matter which is contained in the priority application but also the subject matter as contained in the priority application. In the present case, applicant failed to submit the description as contained in priority application number US 11/768,484.

The petition further states that any substantive or formal material in the international application may be presented in a different manner than that used in the priority application. Petitioner's assertion is true in the general sense, i.e. when filing an international application which claims priority to an earlier application, the international application need not be an exact reproduction of the earlier application in order to have a valid priority claim. However, a proper confirmation of a conditional incorporation by reference under PCT Rule 20.6 requires more than mere support from the priority application. PCT Rule 20.6(a)(i) specifically requires applicant to submit the sheets embodying the entire element as contained in the earlier application. In the present case, the substantive matter added to paragraph number 0001 was not present in the description as contained in the priority application.

The petition requests, alternatively, that the inclusion of the added text in paragraph number 0001 be considered an obvious mistake under PCT Rule 91. PCT Rule 91.1(d) provides that in the case of a mistake in the description or correction/amendment thereof, the competent authority shall only take into account the contents of the description or correction/amendment thereof when determining whether a mistake is rectifiable under PCT Rule 91. In other words, the competent authority is not permitted to take into account the contents of other documents, such as the Request or priority application. Examples of rectifiable obvious mistakes are spelling and grammatical errors. See PCT International Search and Examination Guidelines, ¶ 8.02. In the present case, when taking into account only the description submitted on 24 December 2007, paragraph number 0001 does not contain anything that would be immediately recognizable as a mistake. Moreover, it is not obvious that nothing else could have been intended that what is offered as the proposed rectification. Thus, any purported error in the description submitted on 24 December 2007 is not rectifiable under PCT Rule 91.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

For the reasons above, the request under PCT Rule 91 is REFUSED.

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 1.182".

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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CC: International Bureau of WIPO
P.O. Box 18, 1211 Geneva 20
Switzerland

24 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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In re Application of FLUXTONE, INC.	:	
PCT Application No.: PCT/US2007/72438	:	
Int. Filing Date: 24 December 2007	:	
Priority Date Claimed: 30 June 2006	:	DECISION
Attorney Docket No.: 350010001WO	:	
For: SYSTEM, METHOD AND APPARATUS FOR ADJUSTING AN OUTPUT OF A TRANSDUCER	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.182 " filed 15 September 2008.

BACKGROUND

On 29 June 2007, applicant filed purported international application papers with the United States Receiving Office (RO/US). The submission did not include a description, claims, drawings, or abstract.

On 09 November 2007, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103).

On 24 December 2007, applicant filed a response to the 09 November 2007 invitation, including a statement that the missing elements are incorporated by reference in the international application.

On 19 February 2008, the RO/US mailed a Notification on Decision of Confirmation of Incorporation by Reference of Element or Part (Form PCT/RO/114) and a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132), which indicated that the requirements of PCT Rule 20.6(a) were not met and that the international filing date has been corrected to 24 December 2007 in accordance with PCT Rule 20.3(b)(i).

On 14 March 2008, applicant filed a petition under 37 CFR 1.182.

On 14 May 2008, this Office mailed a decision dismissing the 14 March 2008 petition.

On 15 September 2008, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The renewed petition states that the description submitted on 24 December 2007 was "as contained" in the priority application because the title and serial number of the priority application were present in the priority application. Even assuming *arguendo* that the serial number of the priority application is somehow contained in the priority application papers as filed (as opposed to the publication of the priority application), the benefit claim to the prior application is not present in the prior application. Furthermore, PCT Rule 20.6 plainly requires, in the present case, the submission of the description pages "as contained in the earlier application", i.e. the description pages that were filed in the earlier application. Petitioner's interpretation of the rule would permit a situation in which it would be permissible to submit a new description consisting of subject matter taken from any part of the earlier application, including the claims, drawings, and abstract. This interpretation would further permit an applicant to, for example, insert the word "not" anywhere in the description, as long as the word "not" appeared anywhere else in the prior application. Clearly, PCT Rule 20.6 was not intended to allow such results. Contrary to petitioner's assertion that the USPTO is reading language into PCT Rule 20.6, it is petitioner's interpretation of the PCT Rule 20.6 that strains the plain meaning of the rule.

CONCLUSION

For the reasons above, the renewed 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. 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 1.182".

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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BAKER BOTTS L. L. P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-4498

In re Application of	:	
BUCKEYE TECHNOLOGIES Inc.	:	
PCT App. No.: PCT/US07/72670	:	DECISION ON
Int'l Filing Date: 02 July 2007	:	
Priority Date: 30 June 2006	:	PETITION
Attorney Docket No.: 077470.0307	:	
For: FIRE RETARDANT NONWOVEN MATERIAL AND PROCESS FOR MANUFACTURE	:	UNDER 37 CFR 1.182

This decision is in response to applicant's Petition Under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 09 August 2007.

BACKGROUND

On 02 July 2007, applicant filed *inter alia* a request, a fee calculation sheet and a description.

On 09 August 2007, applicant filed the instant petition to change the international searching authority.

DISCUSSION

Work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

The $400 petition fee will be charged to deposit account no. 02-4377, 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 referred to ISA/US for continued processing.

Erin P. Thomson

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18 SEP 2007

TYCO FLOW COPNTROL
9 ROSZEL ROAD
PRINCETON, NEW JERSEY 08540

In re Application of	:	
WESTLOCK CONTROLS CORPORATION et al.	:	DECISION ON
PCT No.: PCT/US07/72826	:	
Receipt Date: 05 July 2007	:	PETITION UNDER
Priority Date: 17 May 2006	:	
Attorney's Docket No.: S-FC-00001/1	:	37 CFR 1.182
For: Device And Method For Pneumatic Valve Control	:	

This decision is in response to applicant's "Statement For Restoration Of the Right Of Priority," filed 05 July 2007, which has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 05 July 2007, applicants filed PCT/US07/72826 and the instant petition to restore the right of priority to U.S. application serial no. 11/435,976, filed on 17 May 2006.

DISCUSSION

Applicant has presently included a statement that the delay in filing the international application was unintentional. Applicant has also provided authorization to charge the $400 petition fee to Deposit Account No. 50-4150. 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 **17 MAY 2006.**

This application is being forwarded to the United States Receiving Office for further processing in accordance with this decision.

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23 MAR 2010

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In re Application of	:	DECISION ON
TOUCHDOWN TECHNOLOGIES, INC.	:	
PCT No.: PCT/US2007/073579	:	PETITION
Int. Filing Date: 16 July 2007	:	
Priority Date: None	:	
Attorney's Docket No.: TDTECH-009PCT	:	
For: A DEVICE AND METHOD FOR PREPARING A MICROELECTROMECHANICAL SYSTEM	:	

This decision is in response to applicant's submission filed 11 January 2010, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 28 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 16 July 2007.

On 11 January 2010, applicant filed the instant "REQUEST TO CORRECT INVENTORSHIP TO REFLECT INVENTORSHIP AS PROPERLY LISTED ON THE ORIGINAL PCT REQUEST", which has properly been treated as a petition under 37 CFR 1.181.

On 05 February 2010, the International Bureau of WIPO mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE Form PCT/IB/345).

DISCUSSION

The petition under 37 CFR 1.181 requests that the published international application be corrected to list both inventors rather than just one. The Form PCT/IB/345 mailed 05 February 2010 indicates that the IB will publish a corrected version of the corresponding PCT pamphlet on 18 March 2010. A corrected version was published on that date. Accordingly, the petition under 37 CFR 1.181 is MOOT. (Both inventors are listed in the RO/US records).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

/Daniel Stemmer/

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21 JUL 2010

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Washington, DC 20001

In re Application of CHACHA SEARCH, INC. et al :
PCT Application No.: PCT/US2007/073768 :
Int. Filing Date: 18 July 2007 : DECISION
Priority Date Claimed: 18 July 2006 :
Attorney Docket No.: 1918.1006PCT :
For: ANONYMOUS SEARCH SYSTEM USING HUMAN SEARCHERS :

This is in response to applicant's request for refund filed 12 July 2010.

BACKGROUND

On 18 July 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 July 2010, applicant filed the present request for refund.

DISCUSSION

Applicant requests a refund of a $1,000.00 charge for the international search fee. A review of the fee records for the present application reveals that applicant's deposit account was charged $300.00 on 19 July 2007 for the international search fee and that this $300.00 charge was subsequently refunded on 17 September 2007. Also on 17 September 2007, applicant's deposit account was charged $1,000.00 for the international search fee.

At the time of filing of the present application, 37 CFR 1.445(a)(2) provided for a reduced international search fee applied where an international application claimed priority to a prior corresponding U.S. nonprovisional application. In the present case, although priority was claimed to a U.S. nonprovisional application, the filing date of the U.S. nonprovisional application was the same as the international filing date. Pursuant to MPEP 1819 (Rev. 5,

August 2006), "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 appropriate international search fee was $1,000.00, and a refund of such fee is not indicated in the present case.

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.

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.

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20 AUG 2007

Christine Meis McAuliffe
Jennings, Strouss and Salmon, PLC
The Collier Center, 11th Floor
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Phoenix, AZ 85004

In re Application of	:	
Urban Earth Design, LLC, et al.	:	DECISION ON
PCT No.: PCT/US2007/073822	:	
Int. Filing Date: 19 July 2007	:	PETITION UNDER
Priority Date: 18 July 2006	:	
Attorney's Docket No.: 61398-5003WO	:	37 CFR 1.182
For: ARTIFICIAL TURF-COVERED OUTDOOR FURNITURE AND ENCLOSURES FOR OUTDOOR ACCESSORIES	:	

This decision is in response to the "PETITION TO REQUEST CORRECTED FILING DATE" filed 03 August 2007. This has been treated as a petition under 37 CFR 1.182 requesting that the above-identified application be accorded an international filing date of 18 July 2007. The required petition fee of $400 has been charged to applicant's deposit account.

BACKGROUND

On 18 July 2007, at approximately 11:00 p.m. Eastern time, applicant attempted to file an international application. Applicant encountered problems, and was unable to submit these papers. After speaking with technical support, applicant was able to rescan the application papers using a digital scanner, then save and attach those papers. Because these documents were not received in the USPTO before midnight on 18 July 2007, these international application papers were assigned a filing date of 19 July 2007

On 03 August 2007, the United States Receiving Office (RO/US) received the present petition, accompanied by a copy of the Request (Form PCT/RO/101).

On 13 August 2007, the RO/US mailed the "NOTIFICATION OF THE INTERNTIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) indicating that the filing date is 19 July 2007.

DISCUSSION

37 CFR 1.(a)(4) states:

(4) Correspondence may be submitted using the Office electronic filing system only in accordance with the Office electronic filing system requirements. Correspondence submitted to the Office by way of the Office electronic filing system will be accorded a receipt date, which is the date the correspondence is received at the correspondence address for the Office set forth in Sec. 1.1 when it was officially submitted.

Legal Framework For EFS-Web states, in part:

Thus, the filing date of an application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of your newly filed application.

OG Notice 13 February 2007 states, in part:

If a transmission is attempted during a time when the Office's electronic filing system is down, the Office will not be able to accept any correspondence electronically. In this situation, the user is advised to use alternative filing methods... Accordingly, users are strongly advised to submit their correspondence via EFS-Web sufficiently early in the day to allow time for alternative filing or payment methods when submissions via EFS or RAM cannot be initiated or correctly completed.

The application was not "fully, successfully, and officially received at the USPTO" until 19 July 2007. Therefore, the filing date is correct. Further, as indicated in the OG Notice, in the event that there are problems with the electronic filing system, applicant is advised to use alternative filing methods to insure that applicant will get the proper filing date.

It should also be noted that applicant's priority claim now falls outside of the priority period defined in PCT Rule 2.4. Under PCT Rule 26*bis*.3, applicant may be able to request restoration of the priority claim if applicant files such a request within two (2) months from the date on which the priority period expired, i.e., 18 September 2007.

CONCLUSION

Applicant's petition to correct the international filing date to 18 July 2007 is hereby **DISMISSED without prejudice**.

The required $400 petition fee has been **charged to deposit account # 50-1234**.

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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0 1 OCT 2007

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Christine Meis McAuliffe
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Phoenix, AZ 85004

In re Application of: Urban Earth Design, LLC et al.
PCT Application No.: PCT/US2007/073822
International Filing Date: 19 July 2007
Priority Date: 18 July 2006
Attorney Docket No.: 57276-10 PCT
For: ARTIFICIAL TURF-COVERED OUTDOOR FURNITURE AND ENCLOSURE FOR OUTDOOR ACCESSORIES

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is responsive to the "Request to Restore the Right of Priority" filed 11 September 2007 (11.09.2007), 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. 50-1234.

BACKGROUND

On 19 July 2007 (19.07.2007), international application papers were filed, wherein Box VI item (1) of the Request indicated priority claim to earlier U.S. application 60/831891, filed 18 July 2006 (18.07.2006).

On 11 September 2007 (11.09.2007), the present petition was filed which requested restoration of right of priority to the above-mentioned application, which stated the reasons for failure to file the international application within the priority period and included a statement that the delay in filing the international application within the priority period was unintentional. The petition was accompanied by authorization to charge Deposit Account No. 50-1234 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 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.

The priority period expired Wednesday, 18 July 2007 (18.07.2007). The present petition requesting restoration of the right of priority was filed on 11 September 2007 (11.09.2007), 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 60/831891 is GRANTED.

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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Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Attachment:
Notification of Decision on Request to Restore Right of Priority (Form PCT/RO/159)

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
1211 Geneve 20 (SUISSE)

UNITED STATES PATENT AND TRADEMARK OFFICE

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201 East Washington Street
Phoenix, AZ 85004

In re Application of: Urban Earth Design, LLC et al.
PCT Application No.: PCT/US2007/073822
International Filing Date: 19 July 2007
Priority Date: 18 July 2006
Attorney Docket No.: 57276-10 PCT
For: ARTIFICIAL TURF-COVERED OUTDOOR FURNITURE AND ENCLOSURE FOR OUTDOOR ACCESSORIES

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is responsive to the "Request to Restore the Right of Priority" filed 11 September 2007 (11.09.2007), 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. 50-1234.

BACKGROUND

On 19 July 2007 (19.07.2007), international application papers were filed, wherein Box VI item (1) of the Request indicated priority claim to earlier U.S. application 60/831891, filed 18 July 2006 (18.07.2006).

On 11 September 2007 (11.09.2007), the present petition was filed which requested restoration of right of priority to the above-mentioned application, which stated the reasons for failure to file the international application within the priority period and included a statement that the delay in filing the international application within the priority period was unintentional. The petition was accompanied by authorization to charge Deposit Account No. 50-1234 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 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.

The priority period expired Wednesday, 18 July 2007 (18.07.2007). The present petition requesting restoration of the right of priority was filed on 11 September 2007 (11.09.2007), 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 60/831891 is GRANTED.

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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Attachment:
Notification of Decision on Request to Restore Right of Priority (Form PCT/RO/159)

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34, chemin des Colombettes
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UNITED STATES PATENT AND TRADEMARK OFFICE

11 MAY 2009

COMMISSIONER FOR PATENTS
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In re Application of: SANDISK CORPORATION	:	DECISION
PCT Application No.: PCT/US2007/073943	:	
Int. Filing Date: 20 July 2007	:	UNDER
Priority Date: 20 July 2006	:	
Atty Docket No.: 10519-969	:	
For: CONTENT DISTRIBUTION SYSTEM	:	37 CFR 1.181

This decision is in response to applicant's "COMMUNICATION REGARDING PAYMENT OF ADDITIONAL FEES AND INTERNATIONAL SEARCH REPORT" filed 04 November 2008, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 12 August 2008, the ISA/US issued an Invitation to Pay Additional Fees and, Where Applicable, Protest Fee (form PCT/ISA/206) indicating that the international application contains 2 inventions and does not comply with the requirement of unity of invention. Consequently, the applicant was invited to pay $1000 to cover for the additional invention.

On 16 October 2008, the ISA/US issued the International Search Report (form PCT/ISA/210) and Written Opinion of the International Searching Authority (form PCT/ISA/237) indicating that no additional search fees were timely paid by the applicant. Consequently, the search report and written opinion were established on the invention first mentioned in claims 1-6.

On 04 November 2008, applicant filed the present petition asserting that the additional search fee was timely paid on 10 September 2008 and requesting the ISA/US to issue a new search report covering all of the claims.

DISCUSSION

A review of the file reveals that the applicant timely filed a response to the invitation to pay additional fees on 10 September 2008 by authorizing payment of $1000 to cover for the additional invention.

CONCLUSION

For the reasons given above, the applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the ISA authorized officer for the establishment of a corrected International Search Report and Written Opinion of the International Searching Authority covering all of the claims.

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21 NOV 2007

IAP16 Rec'd PCT/PTO 21 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
TURNING TECHNOLOGIES, LLC :
PCT No.: PCT/US2007/074085 :
Int. Filing Date: 23 July 2007 :
Priority Date: 05 June 2006 : **DECISION**
Docket No.: 26901-92 :
For: LICENSING CONTROL MECHANISM AND PARTICIPANT REGISTRATION PROCESS USING A GROUP RESPONSE SYSTEM :

This decision is in response to the "Request for Restoration of the Right of Priority Under PCT Rule 26*bis*.3" filed with the United States Receiving Office (RO/US) on 23 July 2007.

BACKGROUND

On 23 July 2007, applicant filed international application PCT/US2007/074085 claiming priority to a U.S. provisional application 608036901 filed 05 June 2006. Applicant included the subject petition with the application papers requesting to restore the right of priority pursuant to PCT Rule *26bis*.3.

DISCUSSION

PCT Rule *26bis*.3. states that:

> Where the international application has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the receiving Office shall, on the request of the applicant, and subject to paragraphs (b) to (g) of this Rule, restore the right of priority if the Office finds that a criterion applied by it ("criterion for restoration") is satisfied, namely, that the failure to file the international application within the priority period:
>
> (ii) was unintentional.

The $400.00 petition fee has been paid. Applicant provided a statement that

"the entire delay in filing the International Application within the priority period was unintentional." No further information on the delay is required.

As such, applicant has provided all elements needed for a grantable petition.

CONCLUSION

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

The priority claim to U.S. provisional application No. 608036901 filed 05 June 2006 has been restored. A Form PCT/RO/159 indicating that the right to priority has been restored 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 and the Form PCT/RO/159 to the International Bureau.

James Thomson

James Thomson
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22 MAR 2010

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WASHINGTON DC 20005

In re Application of	:	
CHACHA SEARCH, INC.	:	DECISION
PCT No.: PCT/US2007/074219	:	
International Filing Date: 24 October 2007	:	
Priority Date Claimed: 24 July 2006	:	
Attorney's Docket No.: 1918.1023PCT	:	
For: A SYSTEM FOR SUBSTANTIALLY	:	
IMMEDIATE PAYMENT FOR SEARCH	:	
RELATED TASKS	:	

This decision is in response to applicants' "PETITION TO CORRECT DEFECT AND INCORPORATION BY REFERENCE OF MISSING ELEMENTS OR PARTS" filed 24 December 2009, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 24 July 2007, applicants filed international application papers including a Request, description, claims, and abstract. These papers were assigned international application number PCT/US2007/074219.

On 24 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) indicating, *inter alia*, the international filing date as 24 July 2007.

On 24 September 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, *inter alia*, that the drawings referred to on page 3 of the description (Figures 1-9) 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 received that part (PCT Rule 20.5(c)).

On 24 October 2007, applicants filed, *inter alia*, drawing Figures 1-9.

On 24 January 2008, 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 24 October 2007, that the later submitted parts were included in the application and the international filing date was corrected to 24 October 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 24 January 2008, the RO/US also mailed a NOTIFICATION ON DECISION OF CONFIRMATION OF INCORPORATION BY REFERENCE OF ELEMENT OR PART (Form PCT/RO/114) indicating, *inter alia*, that the requirements of PCT Rules 4.18 and 20.6(a) had not been complied with and that the drawings filed 24 October 2007 were not considered to have been contained in the purported international application on 24 July 2007. Specifically, it was noted that the drawings filed 24 October 2007 were not completely contained in the priority application. It was also noted that priority to application US 11/782,275 filed 24 July 2007 could not be claimed since this application was not a prior filed application.

On 07 May 2008, the RO/US 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 for the first listed priority claim in the Request does not fall withing the period of 12 months preceding the international filing date.

On 09 June 2008, the RO/US mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/RO/111) indicating, *inter alia*, that the priority claim in Item VI-1 of the Request was considered void because the applicant's notice fails to correct the priority claim so as to comply with the requirements fo Rule 4.10.

On 10 February 2009, applicants filed a "PETITION TO RESTORE THE RIGHT OF PRIORITY".

On 18 May 2009, the RO/US mailed a NOTIFICATION OF INTENDED REFUSAL OF REQUEST TO RESTORE THE RIGHT OF PRIORITY AND/OR INVITATION TO FURNISH

DECLARATION OR OTHER EVIDENCE (Form PCT/RO/158) indicating, *inter alia*, that the RO/US intends to refuse the request to restore priority received on 10 February 2009 for priority claim US 60/820,197 filed 24 July 2006 because the request was not received within the applicable time limit under PCT Rule 26bis.3(e) and because the statement of reasons for the failure to file the international application within the priority period was missing or insufficient.

On 24 December 2009, applicant submitted the instant petition under 37 CFR 1.181.

DISCUSSION

The petition requests that inadvertently omitted Figures 1-9 be incorporated by reference into the international application since international application incorporated by reference both U.S. application 11/782,275 filed 24 July 2007 (the '275 application) and U.S. application 60/820,179 filed 24 July 2006 (the '179 application).

As to the '275 application, it cannot be incorporated by reference in the international application because it is not an earlier application. See Rule 4.18 and the first paragraph on page 2 of the NOTIFICATION OF INTENDED REFUSAL OF REQUEST TO RESTORE THE RIGHT OF PRIORITY AND/OR INVITATION TO FURNISH DECLARATION OR OTHER EVIDENCE mailed 18 May 2009.

As to the '179 application, a written notice that an element or part that is incorporated by reference in the international application under Rule 4.18 must be filed pursuant to Rule 20.6 within the time limit set forth in Rule 20.7. As noted in the NOTIFICATION ON DECISION OF CONFIRMATION OF INCORPORATION BY REFERENCE OF ELEMENT OR PART, the proposed Figures 1-9 are not completely contained in the '179 application.

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 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.

/Daniel Stemmer/

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11 DEC 2007

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In re Application of: EM4, INC.
PCT No.: PCT/US2007/074754
International Filing Date: 30 July 2007
Priority Date: 28 July 2006
Atty Docket No.: 0112096.00145WO1
For: SYSTEM AND METHOF FOR BUILT IN TESTING OF A FIBER OPTIC TRANSCEIVER

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Petition To Correct The Priority Claim Of The International Application And Vacate Forms PCT/RO/110 Mailed 12 September 2007 And PCT/RO/111 Mailed November 14, 2007" filed 15 November 2007, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 30 July 2007, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. Box No. VI of the Request listed one U.S. provisional application to which priority was claimed, U.S. application number 60/834,256, filed 28 July 2006.

On 12 September 2007, the United States Receiving Office (RO/US) mailed an "Invitation To Correct Priority Claim And/Or Notification Of The Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) indicating that "the priority claim was defective. Specifically, the Form PCT/RO/110 stated that the Request identified the filing date for the priority application as 28 July 2006, while the priority document indicates a filing date of 02 August 2006.

On 14 November 2007, the RO/US mailed a "Notification Relating To Priority Claim (Form PCT/RO/111) indicating that the priority claim is considered void based on applicant's failure to timely respond to the previously mailed PCT/RO/110.

On 15 November 2007, applicant filed the petition considered herein. The petition asserts that the Request form provided the correct application number (60/834,256) and filing date (28 July 2006) for the priority application listed therein and that the priority claim was not defective. Applicant therefore requests that the priority claim be confirmed and that the Form PCT/RO/110 and the Form PCT/RO/111 be vacated.

DISCUSSION

A review of the Request (Form PCT/RO/101) filed by applicant on 30 July 2007 confirms that the Request identified the priority application as U.S. application number 60/834,256 and the filing date for the priority application as 28 July 2006. The filing date provided on the Request corresponds with the filing date indicated for such priority application in the USPTO PALM system.[1]

The Form PCT/RO/110 mailed 12 September 2007, based as it was on applicant's purported failure to provide the correct filing date for the priority claim, is therefore appropriately vacated.

The Form PCT/RO/111 mailed 15 November 2007, based as it was on applicant's failure to respond to the Form PCT/RO/110 which was mailed in error, is also appropriately vacated.

CONCLUSION

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

The "Invitation To Correct Priority Claim And/Or Notification Of The Possibility To Request Restoration Of The Right Of Priority" (Form PCT/RO/110) mailed 12 September 2007 is hereby **VACATED**.

The "Notification Relating To Priority Claim (Form PCT/RO/111) mailed 15 November 2007 is hereby **VACATED**.

The priority claim herein is as set forth in the Request (Form PCT/RO/101) filed 30 July 2007, that is, a priority claim directed to U.S. application number 60/834,256 filed 28 July 2006

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

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[1] It appears that the discrepancy in filing dates referred to in the Form PCT/RO/110 was the result of a data entry error in the RO/US with respect to the priority application number; this error has now been corrected.

2 7 NOV 2007

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In re Application of	:	DECISION ON
DIBNER, Ken	:	
PCT No.: PCT/US07/75161	:	
Int. Filing Date: 03 August 2007	:	PETITION
Priority Date: 01 August 2006	:	
Attorney's Docket No.: DKE-10052/08	:	
For: CARGO HOLDER FOR A VEHICLE	:	UNDER 37 CFR 1.182

This decision is response to applicant's "PETITION UNDER 37 CFR 1.182- REQUEST FOR RESTORATION OF RIGHT OF PRIORITY." Petitioner has paid the $400.00 petition fee.

BACKGROUND

On 03 August 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to U.S. application serial number 60/820,995 filed August 1, 2006.

DISCUSSION

Petitioner has included a request under PCT Rule 26*bis*.1(a) to add the relevant priority claim accompanied by the sheet indicating the priority claim of U.S. application serial number 60/820,995 filed 01 August 2007. Petitioner has provided payment of the $400.00 petition fee.

Petitioner has included a proper statement that "the entire delay in filing the international application was unintentional."

CONCLUSION

For the reasons discussed above, petitioner's petition under 37 CFR 1.182 is **GRANTED**. Form PCT/RO/105 mailed 04 September 2007 is hereby **VACATED**.

A new NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating that the priority date is **01 August 2006** is being forwarded with a copy of this decision to the International Bureau.

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 60/820,995 filed on 01 August 2007; and (2) processing of petitioner's substitute sheets.

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30 JAN 2009

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In re Application of :
ARISTOCRAT TECHNOLOGIES. . . :
PCT No.: PCT/US07/75202 :
Int. Filing Date: 03 August 2007 :
Attorney Docket No.: 18867WO01 : DECISION ON PETITION
For: SLOT MACHINE SYSTEMS, :
METHODS, AND APPARATUS :

This decision is issued in response to applicants' "Request for Withdrawal of Petition for Restoration of PCT Priority under 37 CFR 1.182 and PCT Rule 26.3bis Dated 26 September 2007" filed 30 December 2008.

On 26 September 2007, applicants filed "Petition for Restoration of PCT Priority under 37 CFR 1.182 and PCT Rule 26.3bis " and the required petition fee. Subsequently, applicants filed "Request for Withdrawal of Petition for Restoration of PCT Priority under 37 CFR 1.182 and PCT Rule 26.3bis Dated 26 September 2007" and requested a refund of the petition fee.

Applicants' request for withdrawal of the "Petition for Restoration of PCT Priority under 37 CFR 1.182 and PCT Rule 26.3bis " is acknowledged and the $400 petition under 37 CFR 1.17(f) will be refunded to Deposit Account no. 13-0017.

This application is being forwarded to the United States Receiving Office for further processing in accordance with this decision. A copy of this decision will be forwarded to the International Bureau.

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07 DEC 2007

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07 DEC 2007

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In re Application of
GSI GROUP CORP. et al.
PCT No.: PCT/US07/75463
In. Filing Date: 08 August 2007
Priority Date: 08 September 2006
Atty. Docket No.: 1011-030-0025
For: INTERFEROMERIC OPTICAL POSITION ENCODER EMPLOYING SPATIAL FILTERING OF DIFFRACTION ORDERS FOR IMPROVED ACCURACY

: DECISION on
:
: REFUND

This is in response to applicant's "REQUEST FOR REFUND" filed 12 October 2007 in the United States Patent and Trademark Office (USPTO).

On 08 August 2007, applicant filed international application No. PCT/US07/75463 which claimed priority of an earlier provisional U.S. application filed 08 September 2006 along with a fee calculation sheet.

Applicant paid $300 as the search fee for the present application. The RO/US charged Deposit account 50-3661 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, as pointed out in the present submission, the original application materials filed by applicant referenced a prior U.S. provisional application for such application was identified in "Box VI-1" of the Request (Sheet No. 2/6). Applicant did not provide the title, filing date and applicant's name for the application number which was not known. Applicant therefore did not provide, with the original application papers, all the information required to obtain 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 WITHOUT PREJUDICE**.

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17 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
LIGHT PRESCRIPTIONS INNOVATORS, LLC	:	DECISION
PCT No.: PCT/US2007/075779	:	
Date of Receipt: 13 August 2007	:	
Priority Date Claimed: 10 August 2006	:	
Attorney's Docket No.: 86879 7335	:	
For: LED LIGHT RECYCLING FOR LUMINANCE	:	
ENHANCEMENT AND ANGULAR NARROWING	:	

This decision is response to applicant's submissions filed in the United States Patent and Trademark Office (USPTO) on 13 August 2007 and 03 October 2007.

BACKGROUND

On 13 August 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

On 03 October 2007, applicant filed a submission requesting restoration of priority to earlier U.S. application number 60/822,075 filed 10 August 2006 and a petition fee of $400. This submission has properly been treated as a petition under 37 CFR 1.182.

DISCUSSION

The interim procedures for the restoration of priority claim are detailed on the USPTO website. Consistent with these interim procedures, applicant has presently included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 60/822,075 filed 10 August 2006) was listed in Box VI-1 of the PCT Request filed 13 August 2007 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $400 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**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

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CC: International Bureau of WIPO

Enc.: NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

PCT/US2007/075780 10.12.2007
10 DEC 2007
IAP16 Rec'd PCT/PTO 10 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
LIGHT PRESCRIPTIONS INNOVATORS, LLC :
PCT No.: PCT/US2007/075780 : DECISION ON
Int. Filing Date: 13 August 2007 :
Priority Date: 11 August 2006 : PETITION
Docket No.: 86880 7335 :
For: LED LUMINANCE-ENHANCEMENT : UNDER 37 CFR 1.182
AND COLOR-MIXING BY :
ROTATIONALLY MULTIPLEXED :
BEAM-COMBINING :

This decision is in response to applicant's petition to restore a right of priority, filed in the United States Patent and Trademark Office on 03 October 2007.

On 13 August 2007, applicant filed an international application claiming priority to an application filed 11 August 2006.

As 11 August 2007 was a Saturday, applicant had until 13 August 2007 to file an international application claiming priority to the 11 August 2006 application. See PCT Rule 80.5. As the international application was filed on the next business day, 13 August 2007, the priority claim is considered within 12 months.

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is **DISMISSED AS MOOT**. This application is being referred to the United States Receiving Office for further processing.

/Erin P. Thomson/

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2 0 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
VAN PELT
PCT No.: PCT/US07/75817
International Filing Date: 13 August 2007
Priority Date: 12 August 2006
Attorney's Docket No.: 3027053 WO01
For: NANOLITER FLOW RATE SEPARATION AND ELECTROSPRAY DEVICE WITH PLUG AND PLAY...DIAGNOSTIC MONITORING SYSTEM

DECISION ON PETITION

This decision is issued in response to applicant's correspondence filed 09 April 2008 to accept the drawings filed 09 April 2008 as having been filed on 13 August 2007 and to retain an international filing date of 13 August 2007. The paper is being considered pursuant to 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 13 August 2007, applicant filed papers with the United States Receiving Office (RO/US) including a PCT Request form (Form PCT/RO/101).

On 07 April 2008, applicant was mailed a form PCT/RO/107 inviting applicant to provide drawings which were listed in the purported international application but appeared to be missing.

On 09 April 2008, applicant filed the present petition providing an additional copy of the drawings and seeking retention of the international filing date of 13 August 2007. Applicant included a copy of the Electronic Acknowledgement Receipt from 13 August 2007 which lists the drawings therein.

DISCUSSION

The present international application was filed electronically in the USPTO on 13 August 2007. 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's present petition references an attached Electronic Acknowledgment Receipt generated with respect to the original application filing; the receipt lists as the third item: "Drawings 2007-08-13Drwgs.pdf" and lists the number of pages as 36. As such, it is clear that applicant did provide 36 pages of drawings with the other international application papers on 13 August 2007 and it is proper to grant applicant's petition at this time. The drawings will be added to the international application and this application retains its international filing date of 13 August 2007.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application is being returned to the United States Receiving Office for continued processing. A copy of this decision will be copied to the International Bureau (IB).

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26 MAR 2008

DAVID P. DALKE
O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH CA CALIFORNIA 92660

In re Application of:
NANOGEN, INC.
PCT No.: PCT/US2007/075964
Receipt Date: 15 August 2007
Priority Date Claimed: 15 August 2006
Attorney's Docket No.: 612, 404-514
For: METHODS FOR RAPID, SINGLE-STEP STRAND DISPLACEMENT AMPLIFICATION OF NUCLEIC ACIDS

DECISION

This decision is issued in response to applicant's "Petition Under 37 CFR 1.57(a) For Submission Of Inadvertently Omitted Specification And Drawings In Prior-Filed Applications" filed 18 September 2007. No petition fee is required.

BACKGROUND

On 15 August 2007, applicant filed materials intended to initiate the present international application. These materials were assigned application number PCT/US2007/075964.

The 15 August 2007 filing included the following: (1) Request (Form PCT/RO/101); (2) Fee Calculation Sheet (Form PCT/RO/101 Annex); (3) Transmittal Letter (Form PTO-1382); and (4) a $2,348 fee payment. The Request form includes a priority claim to two prior-filed U.S. applications: 60/837,712 (filed 15 August 2006) and 11/838,024 (filed 13 August 2007). The submission did not include a description, claims, or drawings.

On 18 September 2007, applicant filed the "Petition Under 37 CFR 1.57(a) For Submission Of Inadvertently Omitted Specification And Drawings In Prior-Filed Applications" considered herein, with accompanying materials. The petition states that the specification and drawings were inadvertently omitted from the original international application submission, and it states that the omitted specification and claims were completely contained in both of the prior-filed patent applications, U.S. application numbers 11/838,024 and 60/837,712, copies of which are attached. The petition also states that an "amendment to include the inadvertently omitted specification and drawings is enclosed herewith."

DISCUSSION

Pursuant to PCT Article 11(1)(iii), in order for an international application to be accorded an international filing date, the application must include a part which on its face appears to be a description and a part which on its face appears to be a claim or claims. As noted above, the materials filed by applicant on 15 August 2007 to initiate the present international application did not include a description or claims. Accordingly, the materials filed 15 August 2007 are not sufficient to accord an international filing date.

The present petition seeks to amend the international application pursuant to 37 CFR 1.57(a) to include a description and claims that is purportedly completely contained in the two prior-filed U.S. applications to which priority is claimed. However, 37 CFR 1.57(a) applies to U.S. national applications and is inapplicable in the present circumstances. See MPEP section 201.17(II)(G)(emphasis added):

> Any amendment to an international application pursuant to 37 CFR 1.57(a) will be effective only as to the United States and shall have no effect on the international filing date of the application. **The incorporation by reference relief provided in 37 CFR 1.57(a) cannot be relied upon to accord an international filing date to an international application that is not otherwise entitled to a filing date under PCT Article 11, and it cannot be relied upon to alter the international filing date accorded under PCT Article 11.** In addition, no request to add the inadvertently omitted portion of the specification or drawings in an international application designating the United States will be acted upon by the Office prior to the entry and commencement of the national stage (37 CFR 1.491) or the filing of an application under 35 U.S.C. 111(a) which claims benefit of the international application.

Based on the above, applicants petition to amend the international application under 37 CFR 1.57(a) so as to incorporate a specification, claims, and drawings into the international application (and thereby obtain an international filing date of 15 August 2007) is appropriately dismissed.

PCT Rule 20.6 sets forth the procedure for incorporation by reference applicable to an international application. Pursuant to PCT Rule 20.6(a), any notice of incorporation by reference directed to an entire element that is missing from an international application (i.e., description, claims, drawings) must include "a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned." Pursuant to PCT Rule 20.6(b), in order for the missing element to be treated as filed with the original application materials, the sheets provided under PCT Rule 20.6(a) must be "completely contained in the earlier application concerned."

The proposed amended specification filed 18 September 2007 has been considered under PCT Rule 20.6; however, the amended specification does not comply with the applicable PCT Rules. Specifically, the proposed amended specification is not "completely contained" in the earlier applications. For example, the first paragraph of the proposed amended specification states that the application "claims the priority benefit of U.S. Patent Application Serial No. 11/838,024, filed August 13, 2007;" this statement is not contained in either of the priority

applications. Accordingly, the amended specification filed 18 September 2007 can not be treated as having been contained in the international application materials filed on 15 August 2007.

Although it cannot be treated as having been included with the original application materials, the proposed amended specification filed on 18 September 2007 does include a description and claims; the submission therefore completed the requirements of PCT Article 11(1)(iii). The amended specification was submitted within the applicable time limit under PCT Rule 20.7, that is, within "two months from the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office." Accordingly, pursuant to PCT Rule 20.3(b)(i), the proposed amended specification submitted on 18 September 2007 will be entered into the present international application and the application will be accorded an international filing date of 18 September 2007, the date the amended specification was filed.

Based on the above international filing date, the priority claim to U.S. provisional application 60/837,712, filed 15 August 2006, is defective for failure to fall within twelve months of the international priority date.

CONCLUSION

Applicants' petition under 37 CFR 1.57(a) is **DISMISSED** without prejudice.

In addition, it is concluded that incorporation by reference of the proposed amended specification under PCT Rule 20.6 would be inappropriate in that the amended specification is not "completely contained" in the priority applications.

The description and claims set forth in the proposed "Amendment To The Specification" will be accepted as the description and claims for the present international application, and the application will be accorded an international filing date of 18 September 2007, the date on which this description and claims were originally filed.

Any further submission with respect to the issue of incorporation by reference or the international filing date should be submitted 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.

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) and an "Invitation To Correct Priority Claim (Form PCT/RO/110).

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Commissioner for Patents
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www.uspto.gov

12 SEP 2007

Karoline A. Delaney
Knobbe Martens Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of :
EXPERIAN INFORMATION SERVICES, INC. :
PCT No.: PCT/US07/76152 : DECISION ON PETITION
Int. Filing Date: 16 August 2007 : UNDER 37 CFR 1.182
Priority Date: 17 August 2006 :
Attorney Docket No.: EXP. 126VPC :
For: SYSTEM AND METHOD FOR :
PROVIDING A SCORE FOR A USED
VEHICLE

This decision is issued in response to applicant's "Petition to Correct International Searching Authority under 37 CFR 1.181(a)(2) and (3) and 1.182" filed 06 September 2007. Applicant's request is being treated as a petition under 37 CFR 1.182. Applicant requests to change the searching authority for the above-identified application to the European Patent Office (ISA/EP). Deposit Account No. 11-1410 will be charged the required $400 petition fee.

On 16 August 2007, applicant filed international application PCT/US07/76152, which claimed priority of an earlier US application filed 17 August 2006. In Box No. VII-1 International Searching Authority, applicant indicated the United States (ISA/US) as the International Searching Authority. Additionally, applicant has submitted $300 as the search fee, the amount required when the United States is the ISA.

The records of the ISA/US show that processing of the international search report has not begun as of 06 September 2007. Since the ISA/US has not begun working on the establishment of the International Search Report as of receipt of the petition, applicant's petition under 37CFR 1.182 is **GRANTED**.

Deposit Account No.11-1410 will be charged the additional $1897 needed to complete the $2,197 search fee (applicable where the European Patent Office is the ISA).

The Notification of Receipt of Search Copy (PCT/ISA/202) mailed 14 September 2007 is hereby **VACATED**.

This application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision, including preparing the search copy of this application and forwarding the search copy of this application to the European Patent Office in its capacity as the International Searching Authority together with a copy of this decision.

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Attorney-Advisor
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cc: International Searching Authority/European Patent Office
Postbus 5818
2280 HV Rijswijk
Netherlands

UNITED STATES PATENT AND TRADEMARK OFFICE

26 JUN 2008

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Scott M. Slomowitz
Caesar, Rivise, Bernstein, Cohen & Pokotilow, LTD.
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Philadelphia, PA 19103-2212

In re Application of	
Checkpoint Systems, Inc.	DECISION ON
PCT No.: PCT/US2007/076786	PETITION
Int. Filing Date: 24 August 2007	UNDER 37 CFR 1.182
Priority Date: 25 August 2006	
Attorney's Docket No.: C1241/21372	
For: ANONYMITY-ENSURED SYSTEM FOR PROVIDING AFFINITY-BASED DELIVERABLES TO LIBRARY PATRONS	

This decision is responsive to the "PETITION TO CHANGE INTERNATIONAL SEARCHING AUTHORITY" filed 10 April 2008. This petition is being treated as a petition under 37 CFR 1.182 to change the international searching authority. The $400 petition fee has been paid.

BACKGROUND

On 24 August 2007, applicants filed papers that were assigned international application number PCT/US2007/076786.

On 09 October 2007, the United States Receiving Office (RO/US) mailed applicant the "NOTIFICATION OF PAYMENT OF PRESCRIBED FEES" (Form PCT/RO/102), the "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" (Form PCT/RO/105) and the "INVITATION TO CORRECT DEFECTS IN THE INTERNATIONAL APPLICATION" (Form PCT/RO/106). At the same time, the RO/US mailed a copy of the international application to the European Patent Office as the International Searching Authority, as selected by applicant, and a copy to the International Bureau.

On 26 March 2008, the European Patent Office (ISA/EP) mailed a "COMMUNICATION FOR WHICH NO OTHER FORM IS APPLICABLE" (Form PCT/ISA/224) indicating that the ISA/EP had received the search copy on 11 October 2007, but that they were not a competent authority. Therefore, the application was being forwarded back to the United States International Searching Authority (ISA/US) as the competent authority.

On 10 April 2008, applicant filed the current request to change the international searching authority.

DISCUSSION

On filing, applicant indicated that the European Patent Office should act as the International Searching Authority. In certain applications filed with the RO/US, containing at least one applicant competent to file in the RO/US, where the ISA/EP does not search the subject matter claimed by applicant but that which would be searched by the ISA/US, the ISA/US may accept those applications for searching in the ISA/US. This application is directed to a business method. Although the ISA/EP does not search business methods, the ISA/US will search business methods. Therefore, the application has been forwarded back to the ISA/US to provide the INTERNATIONAL SEARCH REPORT (Form PCT/ISA/210) and WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (Form PCT/ISA/237). Neither the PCT Articles nor the PCT Regulations provide for a change in the International Searching Authority, in this instance.

CONCLUSION

For the reasons above, the "PETITION TO CHANGE THE INTERNATIONAL SEARCHING AUTHORITY" filed 10 April 2008, is hereby **DISMISSED**.

The **$400** petition fee has been charged to deposit account **#03-0075**.

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

Any further correspondence with respect to this matter 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
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Office of PCT Legal Administration

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cc: International Bureau

8 JUN 2009

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BRIAN MC GINLEY
P.O.BOX 061080
WACKER DRIVE STATION
CHICAGO IL 60606-1080

In re Application of	:	
SUNSPRING AMERICA, INC.	:	DECISION
PCT No.: PCT/US2007/077069	:	
International Filing Date: 06 October 2008	:	
Priority Date Claimed: 30 August 2006	:	
Attorney's Docket No.: 50058310-002	:	
For: ONE-PIECE FLEXIBLE TUBE CONNECTOR AND METHOD OF MAKING THE SAME	:	

This decision is in response to applicants' "REQUEST FOR ACKNOWLEDGMENT OF ORIGINAL FILING DATE" filed 23 April 2009, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 29 August 2007, applicants filed a Request and a fee worksheet. These papers were assigned international application number PCT/US2007/077069.

On 04 August 2008, 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 invited applicant to furnish the required correction under Article 11(2) or to confirm in accordance with Rule 20.6(a) that the element referred to in Article 11(1)(iii)(d) and/or (e) was incorporated by reference under Rule 4.18 within two months from the date of mailing of the INVITATION (emphasis added).

On 06 October 2008, applicants filed a "RESPONSE TO INVITATION TO CORRECT PURPORTED INTERNATIONAL APPLICATION" which included a description, claims, drawings, and abstract.

On 10 October 2008, the RO/US mailed a NOTIFICATION THAT THE PURPORTED INTERNATIONAL APPLICATION IS NOT AND WILL NOT BE TREATED AS AN INTERNATIONAL APPLICATION (Form PCT/RO/104).

On 29 October 2008, the RO/US mailed a COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE (Form PCT/RO/132) indicating that the required missing elements were received prior to the issuance of the Form PCT/RO/104 and were therefore considered timely. The COMMUNICATION also indicated that the international filing date would be 06 October 2008.

On 23 February 2009, the RO/US mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND THE INTERNATIONAL FILING DATE indicating the international filing date as 06 October 2008.

On 23 February 2009, 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 of the earlier application did not fall within the period of 12 months preceding the international filing date.

On 23 April 2009, applicants filed the instant "REQUEST FOR ACKNOWLEDGMENT OF ORIGINAL FILING DATE", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the international filing date be changed to 29 August 2007. Applicants urge that the description and claims were filed on 29 August 2007. The submission filed 29 August 2007 was filed electronically. Applicant received an "Electronic Acknowledgement Receipt" on 29 August 2007 at 12:55:32 for five pages of a Request (PCT/RO/101) and two pages of a fee worksheet. The Receipt states "[t]his 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." The electronoic application file shows no description, claims, abstract, or drawings as having been filed on 29 August 2007. The Acknowledgement Receipt for 29 August 2007 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.

The declaration of Anita M. Hansen filed 23 April 2009 states that "[t]o the best of my knowledge, a copy of the Priority Document was concurrently filed with the Application." However, this statement is contradicted by the "Electronic Acknowledgement Receipt". This Receipt and the contents of the electronic file are not outweighed by the evidence submitted by applicants. The declaration of Anita M. Hansen also states that "I intended to concurrently file a copy of the Priority Document with the Application." However, the issue is what was filed rather than what was intended to be filed.

The petition also urges that the description and claims submitted 06 October 2008 were in compliance with the requirements of PCT Rules 4.18 and 20.6(a). However, the elements filed 06 October 2008 were not in compliance these requirements. PCT Rule 20.6(a) requires "a written notice confirming that an element or part is incorporated by reference in the international application under Rule 4.18" accompanied by "a sheet or sheets embodying the entire element as contained in the earlier application." The first sentence of the description provided 06 October 2008 states that: "This is a Patent Cooperation Treaty Application based upon U.S. Application Serial No. 11/513,399 filed August 30, 2006, the disclosure of which is incorporated herein be reference in its entirety." First, this is not a statement confirming that an element or part is incorporated by reference in the international application. Rather, it is a statement indicating that an element or part is incorporated by reference in the international application. Second, this sentence on the first page of the description suggests that at least the description filed 06 October 2008 does not embody the "entire element as contained in the earlier application" because this description includes a sentence that would not have been in the earlier application.

The petition also states that in the event the petition is dismissed, suspension of the rules or the like to avoid any under hardship by applicant is requested. It is not clear which rule or rules applicant is requesting to be waived.

CONCLUSION

The international filing date of the above-identified international application is 06 October 2008.

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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19 FEB 2008

BING AI
FISH & RICHARDSON P.C.
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MINNEAPOLIS MN 55440-1022

In re Application of :
OEWAVES, INC. :
PCT No.: PCT/US07/77476 :
Int. Filing Date: 01 September 2007 : DECISION
Priority Date: 05 September 2006 :
Attorney's Docket No.: 12596-037WO1 :
For: Wideband Receiver Based :
On Photonics Technology :

This is in response to the petition under 37 CFR 1.10(c) filed on 18 December 2007.

BACKGROUND

On 01 September 2007, applicants filed this international application, claiming benefit of priority of an application indicated to have been filed on 01 September 2006.

On 05 November 2007, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) was mailed to applicant, reflecting the 01 November 2007 international filing date and 01 September 2006 priority date. Also mailed was an Invitation To Correct Priority Claim (Form PCT/RO/110) indicating that the claimed priority date was inconsistent with the filing date of the identified prior application.

On 26 November 2007, applicants filed a response including a "substitute page 3 of the Request corrected to show that the priority application USSN 60/842,008, was filed 9/5/2006."

On 17 December 2007, a Notification Relating To Priority Claim (Form PCT/RO/111) was mailed to applicant, reflecting the correction of the priority claim.

DISCUSSION

Applicant "petitions under 37 CFR §1.10(c) that the filing date of the above application be corrected from September 5, 2006 to September 1, 2006." However, review of the application file reveals that the international application in fact has been accorded an international filing date of 01 September 2007, as requested by applicant. As such, the petition under 37 CFR 1.10(c) is **MOOT**.

DECISION

The petition is **DISMISSED AS MOOT**, 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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

06 AUG 2009

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In re Application of	:	
JOHNSON	:	DECISION ON PETITION
PCT No.: PCT/US07/77747	:	
Int. Filing Date: 06 September 2007	:	UNDER 37 CFR 1.182
Priority Date: 06 July 2006	:	
Attorney's Docket No.: 101-00101PCT	:	
For: PORTABLE COOLER	:	

This decision is response to applicant's "REQUEST FOR RESTORATION OF RIGHT OF PRIORITY UNDER PCT RULE 26*bis*.3)" filed in the United States Patent and Trademark Office (USPTO) on 06 September 2007. The petition is being treated under 37 CFR1.182. Applicant has provided payment of the $400.00 petition fee.

BACKGROUND

On 06 September 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 60/818,518 filed 06 July 2006.

DISCUSSION

Applicant has presently included a statement that the entire delay in filing the international application was unintentional. In addition, applicant has included a request under PCT Rule 26*bis*.1(a) in the filed Form PCT/RO/101 to add the relevant priority claim indicating the priority claim of U.S. application serial number 60/818,518 filed 06 July 2006. 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**.

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 60/818,518 filed 06 July 2006; and (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 06 July 2006.

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CC: International Bureau of WIPO
34, chemin des Colombettes
CH-1211 Geneva 20
Switzerland

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03 JAN 2008

HATHAWAY P. RUSSELL
PATENT GROUP
FOLEY HOAG LLP
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BOSTON, MA 02110-2600

In re Application of :
THE JOHNS HOPKINS UNIVERSITY :
PCT Application No.: PCT/US2007/078518 :
Int. Filing Date: 14 September 2007 :
Priority Date Claimed: 15 September 2006 : DECISION
Attorney Docket No.: JHV-059.25 :
For: METHOD OF IDENTIFYING PATIENTS :
SUITABLE FOR HIGH-DOSE :
CYCLOPHOSPHAMIDE TREATMENT :

This is in response to applicant's "Request for Correction of International Filing Date" filed 12 December 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 14 September 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 was accorded an International Filing Date of 15 September 2007.

On 28 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 12 December 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the USPTO EFS-Web Electronic Acknowledgement Receipt reveals that the international application papers were filed on 14 September 2007.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin

Bryan Lin
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PCT Legal Office

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ATTACHMENTS:

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

Corrected Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102)

Corrected Notification of Receipt of Search Copy (Form PCT/ISA/202)

16 JAN 2008

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FARIBORZ MOAZZAM
MOAZZAM & ASSOCIATES, LLC
7601 LEWINSVILLE ROAD, SUITE 304
MCLEAN VA 22102

In re Application of	:	
COLORADO CATHETER COMPANY, INC.	:	DECISION
PCT No.: PCT/US2007/078669	:	
Date of Receipt: 17 September 2007	:	
Priority Date Claimed: 17 July 2006	:	
Attorney's Docket No.: CCC-107-PCT	:	
For: DEVICES FOR HANDLING CATHETER ASSEMBLY	:	

This decision is response to applicant's submissions filed in the United States Patent and Trademark Office (USPTO) on 17 September 2007 and 19 November 2007.

BACKGROUND

On 17 September 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority to earlier U.S. application number 11/487,487 filed 17 July 2006 and an authorization to charge any additional fees required to Deposit Account 50-2882.

On 01 November 2007, the RO/US 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 November 2007, applicant filed a response indicating that the international filing date is within two months of the date on which the priority period expired. The request filed 17 September 2007 has properly been treated as a petition under 37 CFR 1.182. The request filed 19 November 2007 has been treated as a supplemental petition.

DISCUSSION

The interim procedures for the restoration of priority claim are detailed on the USPTO website. Consistent with these interim procedures, applicant has included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 11/487,487 filed 17 July 2006) was listed in Box VI of the PCT

Request filed 17 September 2007 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $400 petition fee. As such, it is appropriate to grant applicant's petition at this time. Accordingly, the INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY is hereby VACATED.

CONCLUSION

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

For the reasons discussed above, the INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY mailed 01 November 2007 is VACATED.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

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Legal Administration
Telephone: (571) 272-3301
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CC: International Bureau of WIPO

Enc.: NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
CRAIG M. STAINBROOK
STAINBROOK & STAINBROOK, LLP
412 AVIATION BOULEVARD, SUITE H
SANTA ROSA, CA 95403

PCT

NOTIFICATION OF DECISION ON PROTEST

(PCT Rule 40.2(c) and (e) and Administrative Instructions, Section 502)

	Date of Mailing (*day/month/year*) MAR 21 2008
Applicant's or agent's file reference 01172.P1PCT	**IMPORTANT NOTIFICATION**
International application No. PCT/US07/79553	International filing date (*day/month/year*) 26 September 2007 (26.09.2007)
Applicant LADYBUG TECHNOLOGIES, LLC	

The applicant is hereby notified that this International Searching Authority, after having examined the protest on the payment of the additional fee(s), has reached the decision indicated below.

1. ☐ **The protest is found justified** to the extent that:

   a. ☐ total reimbursement of the additional fee(s) and any protest fee will be made in due course.

   b. ☐ partial reimbursement in the amount of _____ ***(amount/currency)*** will be made in due course for the following reasons:

2. ☒ **The protest is found unjustified** and the additional fee(s) will not be refunded for the following reason(s):

Please See Continuation Sheet

ATTENTION

The applicant should notify the International Bureau promptly if he wishes a copy of the protest and the decision thereon to be sent to the designated Offices.
A copy of this notification has been sent to the International Bureau.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer Richard Seidel Telephone No. 571 272 2800

Form PCT/ISA/212 (July 1992)

NOTIFICATION OF DECISION CONCERNING PROTEST

International application No.
PCT/US07/79553

1. Reason(s) for Wholly Denied the protest:
History:
An Invitation to Pay Additional Fees was mailed on 28 January 2008 in this application. The cause for this letter was a holding of a lack of unity in this application and a finding that two distinct inventions were claimed. In response applicant has filed a protest on 28 February 2008, and has paid the appropriate fees.

Arguments Presented:
The reasoned statement asserts the self balancing bridge of claims 1 and 2 have one or more of the same or corresponding special technical features, specifically the feature from claim 1 of one RF input and 2 voltage outputs one output proportional to the magnitude of the input and one proportional to the frequency of the input are shared special technical features.

Applicable Rules:
The basis for this holding is found in PCT Rules 13.1 and 13.2 reproduced below:
13.1 Requirement
The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").
13.2 Circumstances in Which the Requirement of Unity of Invention Is to Be Considered Fulfilled
Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Applicable Examination Guidelines:
The PCT International Search and Preliminary Examination Guidelines (<http://www.wipo.int/pct/en/texts/pdf/ispe.pdf>) provide guidance concerning whether a claim limitation should be considered a special technical feature. Paragraph 10.02 states:
Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

In the present application, the searcher has a posteriori determined there is a lack of unity in view of the cited prior art US 4,967,159 (Manes). See MPEP 1850 and Examination Guidelines 10.02, 10.03. Specifically the common identified claim limitations of an RF input and two outputs were found by the searcher not to make a contribution over the prior art. In response to this finding the Protest states that the specification demonstrates the structural elements recited in claim 2 the two output voltage outputs having the magnitude and frequency as claimed in claim 1. However, the claim (2) is not so limited. It recites an impedance divider bridge with two outputs that feed RF detectors whose outputs are fed to a comparator. These claimed limitations do not necessarily produce a magnitude and a frequency indicative siganls. The searcher's analysis of the claim limitations, presented in the Invitation to Pay Additional Fees is found to support a holding of lack of unity of invention

The Holding of a Lack of Unity is sustained.

Any questions or comments regarding this decision should be directed to
Brian Sircus, SPE, at 571 272 2058.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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0 9 JAN 2008

Texas Instrument Incorporated
Warren L. Frantz
Deputy General Patent Counsel
P.O. Box 655474, MS 3999
Dallas, Texas 75265-5474

In re Application of	:	
TEXAS INSTRUMENT INCORPORATED	:	
PCT No.: PCT/US07/80412	:	DECISION ON
Int. Filing Date: 04 October 2007	:	PETITION UNDER
Priority Date: 26 September 2006	:	37 CFR 1.182
Attorney's Docket No.: TI-63344WO	:	
For: EMITTER BALLASTING BY CONTACT AREA SEGMENTATION IN ESD BIPOLAR BASED SEMICONDUCTOR COMPONENT	:	

This decision is issued in response to applicant's "Statement for Restoration of the Right of Priority (Rule 26bis.3)" filed in the United States Patent and Trademark Office (USPTO) on 04 October 2007. The petition is being treated under 37 CFR1.182. As authorized, the $400.00 petition fee will be charged to deposit account no. 20-0645.

BACKGROUND

On 04 October 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to US application number 60/827,361 filed 26 September 2006 under PCT Rule 26*bis*.1(a).

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.

Applicant has submitted the requisite $400 petition fee under 37 CFR 1.17(f). Therefore, item (i) has been satisfied.

The priority claim in respect of the earlier application is contained in the international application. Therefore, item (ii) has been satisfied.

As to item (iii), applicant has included 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 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 claim of U.S. application serial number 60/827,361 filed 26 September 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 26 September 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

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
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Alexandria, VA 22313-1450
www.uspto.gov

James J. Pingor
Amin, Turocy & Calvin, LLP
1900 E. 9th Street, 24th Floor
Cleveland, OH 44114

In re Application of	:	
ICEBREAKER, INC.	:	DECISION ON PETITION
PCT No.: PCT/US07/81157	:	
Int. Filing Date: 11 October 2007	:	UNDER 37 CFR 1.182
Priority Date: 15 September 2006	:	
Attorney's Docket No.: BRKRP104WO	:	
For: SOCIAL INTERACTION SYSTEM GAMES AND ACTIVITIES	:	

This decision is response to applicant's "REQUEST FOR RESTORATION ON A RIGHT OF PRIORITY UNDER PCT RULE 26*bis*.3(a)" filed in the United States Patent and Trademark Office (USPTO) on 11 October 2007 and supplemented on 05 November 2007. The petition is being treated under 37 CFR1.182. As authorized the $400.00 petition fee will be charged to deposit account number 50-1063.

BACKGROUND

On 11 October 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 11/776,015 filed 15 September 2006. The filed PCT Fee Calculation sheet authorized the deducting of all necessary fees to deposit account number 50-1063.

On 05 November 2007, applicant filed a supplemental petition identifying the priority claim to be restored as U.S. application serial number 60/825,851.

DISCUSSION

Applicant has presently included a statement that the entire delay in filing the international application was unintentional. In addition, applicant has included a request under PCT Rule 26*bis*.1(a) to add the relevant priority claim accompanied by substitute sheets indicating the priority claim of U.S. application serial number 60/825,851 filed 15 September 2006. 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**.

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 60/825,851 filed 15 September 2006; (2) processing of applicant's substitute sheets and (3) 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 15 September 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

11/14/2007 SBASHEIR 00000001 501063 PCT/US07/81157
Sale Ref: 00000001 DA#: 501063 PCT/US07/81157
01 FC:1462 400.00 DA

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Legal Staff
International Division

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AMIN, TUROCY & CALVIN, LLP
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TELEPHONE: 216-696-8730
FACSIMILE: 216-696-8731

Direct e-mail: jpingor@thepatentattorneys.com

November 5, 2007

VIA FACSIMILE (571.273.0459)

Re: Right of Priority - 37 CFR 1.182
PCT/US07/81157
Our Ref: BRKRP104WO

Dear Sir or Madam:

This letter is to supplement the PCT Request filed on October 11, 2007 in connection with the subject application. Please note that failure to timely file the above-identified International application occurred unintentionally and that restoration of priority rights to the earlier filed national application, S/N 60/825,851 (filed on September 15, 2006), is respectfully requested.

This letter expressly authorizes deposit account 50-1063 to be charged in connection with the fee of $400 associated with this restoration of priority claim (or any other or additional fees that may be due in connection with this application including restoration of priority rights).

As requested by Mr. Putonen, a replacement copy of the PCT request is attached.

It is noted that this letter is being submitted within 14 months of the priority claim (US 60/825,851), and thus falls within provisions of Article 26bis3 in connection with an unintentional failure to timely file the international application and make priority claim in connection with the subject application.

Should additional information be needed to correct and restore the right of priority in this matter, please do not hesitate to contact us.

Regards,

AMIN, TUROCY & CALVIN, LLP

James J. Pingor, USPTO Reg. No. 51382

15 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JAMES J. PINGOR
AMIN, TUROCY & CALVIN, LLP
1900 E. 9TH STREET, 24TH FLOOR
CLEVELAND, OH 44114

In re Application of ICEBREAKER, INC.	:	
PCT Application No.: PCT/US2007/81158	:	
Int. Filing Date: 11 October 2007	:	DECISION
Priority Date Claimed: 15 September 2006	:	
Attorney Docket No.: BRKRP105WO	:	
For: SOCIAL INTERACTION MESSAGING AND NOTIFICATION	:	

This is in response to applicant's petition under 37 CFR 1.182 filed 05 November 2007.

BACKGROUND

On 11 October 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 05 November 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 will be charged to Deposit Account No. 50-1063 as authorized in the petition.

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

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)

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5 NOV 2007
Legal Staff
International Division

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November 5, 2007

VIA FACSIMILE (571.273.0459)

Re: Right of Priority - 37 CFR 1.182
PCT/US07/81158
Our Ref: BRKRP105WO

Dear Sir or Madam:

This letter is to supplement the PCT Request filed on October 11, 2007 in connection with the subject application. Please note that failure to timely file the above-identified International application occurred unintentionally and that restoration of priority rights to the earlier filed national application, S/N 60/825,851 (filed on September 15, 2006), is respectfully requested.

This letter expressly authorizes deposit account 50-1063 to be charged in connection with the fee of $400 associated with this restoration of priority claim (or any other or additional fees that may be due in connection with this application including restoration of priority rights).

It is noted that this letter is being submitted within 14 months of the priority claim (US 60/825,851), and thus falls within provisions of Article 26bis3 in connection with an unintentional failure to timely file the international application and make priority claim in connection with the subject application.

Should additional information be needed to correct and restore the right of priority in this matter, please do not hesitate to contact us.

Regards,

AMIN, TUROCY & CALVIN, LLP

James J. Pingor, USPTO Reg. No. 51382

11/15/2007 SBASHEIR 00000003 501063 PCT/US07/81158
01 FC:1462 400.00 DA

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*** RX REPORT ***
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RECEPTION OK

TX/RX NO	9135
RECIPIENT ADDRESS	216 696 8731
DESTINATION ID	
ST. TIME	11/05 20:05
TIME USE	00'19
PGS.	1
RESULT	OK

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November 5, 2007

VIA FACSIMILE (571.273.0459)

Re: Right of Priority - 37 CFR 1.182
PCT/US07/81158
Our Ref: BRKRP105WO

Dear Sir or Madam:

This letter is to supplement the PCT Request filed on October 11, 2007 in connection with the subject application. Please note that failure to timely file the above-identified International application occurred unintentionally and that restoration of priority rights to the earlier filed national application, S/N 60/825,851 (filed on September 15, 2006), is respectfully requested.

This letter expressly authorizes deposit account 50-1063 to be charged in connection with the fee of $400 associated with this restoration of priority claim (or any other or additional fees that may be due in connection with this application including restoration of priority rights).

It is noted that this letter is being submitted within 14 months of the priority claim (US 60/825,851), and thus falls within provisions of Article 26bis3 in connection with an unintentional failure to timely file the international application and make priority claim in connection with the subject application.

Should additional information be needed to correct and restore the right of priority in this matter, please do not hesitate to contact us.

Regards,

AMIN, TUROCY & CALVIN, LLP

James J. Pingor, USPTO Reg. No. 51382

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FACSIMILE TRANSMISSION

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Date: **November 5, 2007**

TO: **Mr. Bryan Lin**

FAX NO.: **571.273.3303**

FROM: **James J. Pingor**

Re: **PCT/US07/81158 (BRKRP105WO)**

NUMBER OF PAGES TO FOLLOW: 1

Thank you again for your assistance today in reviewing the subject correspondence for compliance with 26bis3. This letter has been officially faxed to PCT Receiving Office at 571.273.0459. Attached is a courtesy copy for your convenience.

Should you need additional information, please contact us.

Regards,

-James.

Document1

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Alexandria, VA 22313-1450
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19 NOV 2007

JAMES J. PINGOR
AMIN, TUROCY & CALVIN, LLP
1900 E. 9TH STREET, 24TH FLOOR
CLEVELAND OH 44114

In re Application of :
ICEBREAKER, INC. : DECISION
PCT No.: PCT/US2007/081159 :
Date of Receipt: 11 October 2007 :
Priority Date Claimed: 15 September 2006 :
Attorney's Docket No.: BRKRP106WO :
For: SOCIAL INTERACTION TAGGING :

This decision is response to applicant's submissions filed in the United States Patent and Trademark Office (USPTO) on 11 October 2007 and 05 November 2007. As authorized the $400 petition fee will be charged to deposit account number 50-1063.

BACKGROUND

On 11 October 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

On 05 November 2007, applicant filed a submission requesting restoration of priority to earlier U.S. application number 60/825,851 filed 15 September 2006 and an authorization to charge $400 to Deposit Account 50-1063. This submission has properly been treated as a petition under 37 CFR 1.182.

DISCUSSION

The interim procedures for the restoration of priority claim are detailed on the USPTO website. Consistent with these interim procedures, applicant has presently included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 60/825,851 filed 15 September 2006) was listed in Box VI-1 of the PCT Request filed 11 October 2007 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has authorized a charge for the required $400 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**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Daniel Stemmer
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

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5 NOV 2007
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International Division

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November 5, 2007

VIA FACSIMILE (571.273.0459)

Re: Right of Priority - 37 CFR 1.182
PCT/US07/81159
Our Ref: BRKRP106WO

Dear Sir or Madam:

This letter is to supplement the PCT Request filed on October 11, 2007 in connection with the subject application. Please note that failure to timely file the above-identified International application occurred unintentionally and that restoration of priority rights to the earlier filed national application, S/N 60/825,851 (filed on September 15, 2006), is respectfully requested.

This letter expressly authorizes deposit account 50-1063 to be charged in connection with the fee of $400 associated with this restoration of priority claim (or any other or additional fees that may be due in connection with this application including restoration of priority rights).

It is noted that this letter is being submitted within 14 months of the priority claim (US 60/825,851), and thus falls within provisions of Article 26bis3 in connection with an unintentional failure to timely file the international application and make priority claim in connection with the subject application.

Should additional information be needed to correct and restore the right of priority in this matter, please do not hesitate to contact us.

Regards,

AMIN, TUROCY & CALVIN, LLP

James J. Pingor, USPTO Reg. No. 51382

11/19/2007 SBASHEIR 00000005 501063 PCT/US07/81159
Sale Ref: 00000006 DA#: 501063 PCT/US07/81159
01 FC:1462 400.00 DA

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*** RX REPORT ***
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RECEPTION OK

TX/RX NO	9136
RECIPIENT ADDRESS	216 696 8731
DESTINATION ID	
ST. TIME	11/05 20:06
TIME USE	00'20
PGS.	1
RESULT	OK

11 DEC 2007

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JAMES J. PINGOR
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CLEVELAND, OH 44114

In re Application of	:	
ICEBREAKER, Inc.	:	
PCT No.: PCT/US2007/081160	:	DECISION ON
Int. Filing Date: 11 October 2007	:	
Priority Date: 15 September 2006	:	PETITION
Docket No.: BRKRP107WO	:	
For: LOCATION-BASED SOCIAL INTERACTION NETWORK	:	UNDER 37 CFR 1.182

This decision is in response to applicant's Petition Under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 11 October 2007.

BACKGROUND

On 11 October 2007, applicant filed international application PCT/US2007/081160, which claimed a priority date of 15 September 2006, along with a request to restore applicant's claim to priority.

On 05 November 2007, applicant filed a supplement to the 11 October 2007 petition authorizing the Office to charge the petition fee to deposit account no. 50-1063 and making the required statement that the failure to timely file was unintentional.

DISCUSSION

In accordance with the interim procedures (in effect prior to 09 November 2007) regarding a request for restoration of a right of priority, applicant's request is being treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 1063 as authorized.

The petition was filed within two months of the expiration of the priority period and it includes an appropriate statement of unintentional delay. Therefore, the requirements for a request to restore a right of priority have been satisfied.

CONCLUSION

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

This application is being returned to PCT Operations 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: Notification of Decision On Request to Restore Right of Priority (Form PCT/RO/159

21 NOV 2007

UNITED STATES PATENT and TRADEMARK OFFICE

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www.uspto.gov

James J. Pingor
Amin, Turocy & Calvin, LLP
1900 E. 9th Street, 24th Floor
Cleveland, OH 44114

In re Application of	:	
ICEBREAKER, INC.	:	DECISION ON PETITION
PCT No.: PCT/US07/81161	:	
Int. Filing Date: 11 October 2007	:	UNDER 37 CFR 1.182
Priority Date: 15 September 2006	:	
Attorney's Docket No.: BRKRP108WO	:	
For: DATE MANAGEMENT WITHIN A SOCIAL INTERACTION NETWORK	:	

This decision is response to applicant's "REQUEST FOR RESTORATION ON A RIGHT OF PRIORITY UNDER PCT RULE 26*bis*.3(a)" filed in the United States Patent and Trademark Office (USPTO) on 11 October 2007. The petition is being treated under 37 CFR1.182. As authorized the $400.00 petition fee will be charged to deposit account number 50-1063.

BACKGROUND

On 11 October 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 60/825,851 filed 15 September 2006. The filed PCT Fee Calculation sheet authorized the deducting of all necessary fees to deposit account number 50-1063.

On 05 November 2007, applicant filed a supplemental petition identifying the priority claim to be restored as U.S. application serial number 60/825,851.

DISCUSSION

Applicant has presently included a statement that the entire delay in filing the international application was unintentional. In addition, applicant has included a request under PCT Rule 26*bis*.1(a) to add the relevant priority claim accompanied by substitute sheets indicating the priority claim of U.S. application serial number 60/825,851 filed 15 September 2006. 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**.

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 60/825,851 filed 15 September 2006; (2) processing of applicant's substitute sheets and (3) 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 15 September 2006.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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Fax: (571) 273-0459

CC: International Bureau of WIPO
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08 FEB 2008

Jennifer Meredith
Meredith & Keyhani, PLLC
330 Madison Avenue
6th Floor
New York, New York 10017

In re Application of :
LARGE, William T. :
PCT No.: PCT/US07/81402 : DECISION ON
Int. Filing Date: 15 October 2007 : PETITION UNDER
Priority Date: 28 September 2006 : 37 CFR 1.182
Attorney's Docket No.: None :
For: BIOMECHANICALLY LOW LOAD MULTI-ANGLE MULTI-DEXERITY COMPUTER MOUSE :

This decision is issued in response to applicant's "Declaration in Support of Request to Restore Priority" filed in the United States Patent and Trademark Office (USPTO) on 15 October 2007, which is being treated as a petition under 37 CFR 1.182. Additionally, this decision is in response to applicant's "Invitation to Correct Defects" filed 28 January 2008.

BACKGROUND

On 15 October 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by the present petition under 37 CFR 1.182 to restore the right of priority to US application number 11/536,107 filed 28 September 2006 under PCT Rule 26*bis*.1(a).

On 23 January 2008, 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); Invitation to Correct Defects in the International Application (Form PCT/RO/106); and Invitation to Correct Priority Claim (PCT/RO/110).

On 28 January 2008, applicant filed "Invitation to Correct Defects" which included the requisite petition fee to restore the right of priority.

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.

Item (i) has not been satisfied. The petition fee, submitted on 28 January 2008, was not filed within two months from the date of expiration of the priority period as defined by PCT Rule 26bis.3(e). Therefore, item (i) has not been satisfied.

The priority claim in respect of the earlier application is contained in the international application. Therefore, item (ii) has been satisfied.

As to item (iii), applicant has presently included a statement that the entire delay in filing the international application was unintentional. Therefore, item (iii) has been satisfied.

Since item (i) has not been satisfied, applicant's request for restoration of right of priority is dismissed.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

05 SEP 2008

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

Michael Lee
Plumse Law Group LLC
10411 Motor City Drive. Suite 320
Bethesda, MD 20817

In re Application of:
Nike, Inc.
PCT Application No.: PCT/US2007/081470
Int. Filing Date: 16 October 2007
Priority Date: 16 October 2006
Atty Docket No.: 51-1403
For: ARTICLE OF FOOTWEAR WITH DEFORMING INSERT

DECISION ON PETITION

This is in response to applicant's "PETITION TO CORRECT INTERNATIONAL FILING DATE" received on 16 July 2008 to accord an international filing date of 16 October 2007 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 16 October 2007, 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 16 October 2007.

On 24 June 2008, 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), which accorded the international filing date of 09 June 2008.

On 16 July 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Electronic Acknowledgment Receipt confirms the receipt in the USPTO on 16 October 2007 of the international application papers. Accordingly, the correct international filing date for the present application is 16 October 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 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 16 October 2007 will be mailed with this decision. The Notification of the International Application number and of the International Filing Date (Form PCT/RO/105) mailed on 24 June 2008 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
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 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

Jeffrey P. Calfa
4201 Winfield Road
Warrenville, Illinois 60555

In re Application of	:	
INTERNATIONAL ENGINE INTELLECTUAL	:	DECISION ON PETITION
PROPERTY COMPANY, LLC	:	
PCT No.: PCT/US07/81627	:	
Int. Filing Date: 17 October 2007	:	UNDER 37 CFR 1.182
Priority Date: 02 October 2006	:	
Attorney's Docket No.: D6073	:	
For: STRATEGY FOR CONTROL OF	:	
RE-CIRCULATED EXHAUST GAS TO NULL	:	
TURBOCHARGER BOOST ERROR	:	

This decision is response to applicant's "PETITION FOR RESTORATION OF RIGHT OF PRIORITY" filed in the United States Patent and Trademark Office (USPTO) on 17 October 2007. Applicant has provided payment of the $400.00 petition fee.

BACKGROUND

On 17 October 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US). The application claimed priority to U.S. application 11/537,794 filed 02 October 2006. The PCT Request included language asking the receiving office to restore the right of priority. The application was accompanied by the present petition and payment of the $400.00 petition fee.

DISCUSSION

The interim procedures for the restoration of priority claims filed prior to 09 November 2007 are detailed on the USPTO website. Consistent with these interim procedures, applicant has provided payment of the $400.00 petition fee. However, applicant has not provided a statement of reasons for the delay pursuant to PCT Rule 26*bis*.3(a). Applicant's states that, "It is with regret that we did not file this application within the appropriate deadline." This statement does not satisfy the "unintentional statement" requirement of the rule. Applicant must submit the necessary language as a further declaration in support of the language requesting a restoration of the right of priority.

CONCLUSION

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

A copy of Form PCT/RO/158 accompanies this decision.

This application is being forwarded to the RO/US for continued 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
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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

28 FEB 2008

Jeffrey P. Calfa
4201 Winfield Road
Warrenville, Illinois 60555

In re Application of	
INTERNATIONAL ENGINE INTELLECTUAL	
PROPERTY COMPANY, LLC	DECISION ON RENEWED
PCT No.: PCT/US07/81627	
Int. Filing Date: 17 October 2007	PETITION UNDER
Priority Date: 02 October 2006	
Attorney's Docket No.: D6073	37 CFR 1.182
For: STRATEGY FOR CONTROL OF	
RE-CIRCULATED EXHAUST GAS TO NULL	
TURBOCHARGER BOOST ERROR	

This decision is response to applicant's "DECLARATION IN SUPPORT OF PETITION FOR RESTORATION OF RIGHT OF PRIORITY" filed in the United States Patent and Trademark Office (USPTO) on 18 February 2008. Applicant previously provided payment of the $400.00 petition fee.

BACKGROUND

On 06 February 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182 to restore the right of priority in the above-captioned international application.

On 11 February 2008, applicant was mailed a "Notification of Intended Refusal of Request to Restore Right of Priority and/or Invitation to Furnish Declaration or Other Evidence" (Form PCT/RO/158) affording applicant 30 days to provide additional evidence as to the unintentional nature of missing the one year date for a priority claim.

On 18 February 2008, applicant filed the declaration discussed herein.

DISCUSSION

As detailed in the decision mailed 06 February 2008, the interim procedures for the restoration of priority claims filed prior to 09 November 2007 are detailed on the USPTO website. Applicant's original statement of delay did not satisfy the "unintentional statement" requirement of the rule. Applicant has presently provided a declaration in support of the language requesting a restoration of the right of priority. As such, applicant has satisfied all of the items necessary for restoring the right of priority for this application and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.182 is **GRANTED**.

A form PCT/RO/159 accompanies this decision.

This application is being returned to the United States Receiving Office for continued processing.

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CC: International Bureau of WIPO
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0 8 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WARREN L. FRANZ
TEXAS INSTRUMENTS INCORPORATED
DEPUTY GENERAL PATENT COUNSEL
P.O. BOX 655474, MS 3999
DALLAS TX TEXAS 75265-5474

In re Application of:
TEXAS INSTRUMENTS INCORPORATED
PCT No.: PCT/US2007/081914
Receipt Date: 19 October 2007
Priority Date Claimed: 18 October 2006
Atty Docket No.: TI-63584WO
For: INTERFACE TO FULL AND REDUCED PIN JTAG DEVICES

DECISION

This decision is response to applicant's "Statement For Restoration Of The Right Of Priority (PCT Rule 26bis.3)" filed in the United States Patent and Trademark Office (USPTO) on 19 October 2007, treated herein as a petition under 37 CFR 1.182. As authorized the $400.00 petition fee will be charged to deposit account number 20-0645.

BACKGROUND

On 19 October 2007, applicant filed in the United States Receiving Office (RO/US) materials to initiate the above captioned PCT application. The submission included the "Statement For Restoration Of The Right Of Priority (PCT Rule 26bis.3)" considered herein, which seeks to restore the right of priority to U.S. application serial number 60/829,979, filed 18 October 2006.

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 60/829,979, filed 18 October 2006) was listed in Box VI(1) of the PCT Request (Form PCT/RO/101) filed 19 October 2007. All these materials were submitted within the two month period required by PCT Rule 26*bis*.3 for restoration of the 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 under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

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CH-1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

18 FEB 2010

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

MICHAEL J. WISE
PERKINS COIE LLP
JAMES J. ZHU
PATENT - LA, P.O. BOX 1208
SEATTLE WA WASHINGTON 98111-1208

In re Application of:
SCHERING-PLOUGH CORPORATION.
PCT No: PCT/US2007/082164
International Filing Date: 22 October 2007
Priority Date: 20 October 2006
Atty Docket No.: 075528001WO0
For: FULLY HUMAN ANTI-VEGF ANTIBODIES AND METHODS OF USING

DECISION ON PETITION
(37 CFR 1.182)

This is in response to applicant's "Request For Republication Of The International Application" filed 14 October 2009 and the "Petition Under 37 CFR 1.182" filed 20 January 2010. Applicant has submitted the petition fee required for the petition under 37 CFR 1.182.

BACKGROUND

On 22 October 2007, applicant filed a PCT Request (Form PCT/RO/101) and accompanying materials to initiate the present international application, including sequence listing materials.

On 14 October 2009, applicant filed a "Request For Republication Of The International Application." The submission requests that the United States Receiving Office (RO/US) forward the sequence listing filed herein to the International Bureau (IB) and that the international application be republished with the sequence listing included.

On 20 January 2010, applicant filed the "Petition Under 37 CFR 1.182" considered herein. The petition requests correction the international application so as to include the sequence listing filed on 22 October 2007 as part of the international application.

DISCUSSION

The materials filed by applicants on 22 October 2007 included a sequence listing that was submitted as both a seven-page PDF file and as a text file. The application papers also included a statement confirming that the paper copy of the sequence listing was identical to the computer readable copy of the sequence listing. However, Box IX of the PCT Request, which specifically lists the pages comprising the international application, did not identify the seven page sequence listing as part of the application. Moreover, as set forth in Box IX-16(A), applicant indicated

that the electronic sequence listing was submitted for the purposes of international search only, and not as part of the international application. Accordingly, the seven-pages of sequence listing filed 22 October 2007 were not included as part of the record copy of the application forwarded to the IB.

Applicant now requests that the international application be corrected to include the seven pages of sequence listing filed on 22 October 2007 and that the application be republished with these seven pages included. Initially, it is noted that questions regarding republication of an international application are decided by the IB. Accordingly, any request for republication of the application must be filed by applicant directly with the IB. The "Request For Republication Of The International Application" filed by applicant with the RO/US is therefore appropriately dismissed.

With respect to the petition under 37 CFR 1.182 to correct the international application, applicant has paid the required petition fee (as well as the applicable fee for inclusion of seven additional pages in the international application). In addition, as discussed above, the materials filed by applicant on the international filing date included the seven-pages of sequence listing that applicant now wish to have included in the international application. Under these circumstances, the petition to correct the international application to include the seven-page sequence listing as part of the international application is properly granted.

CONCLUSION

The "Request For Republication Of The International Application" is **DISMISSED** without prejudice.

Applicant should address any subsequent request for republication directly to the International Bureau.

The "Petition under 37 CFR 1.182" is **GRANTED**.

The seven-page sequence listing document (in PDF format) filed on 22 October 2007 will be treated as part of the present international application.

This application is being referred to the RO/US for further processing in accordance with this decision. A copy of this decision and the seven page sequence listing document filed 22 October 2007 will be forwarded to the International Bureau (IB).

Richard M. Ross
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Facsimile: (571) 273-0459

12 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Joseph Murphy
CAESAR, RIVESE, BERNSTEIN, COHEN & POKOTILOW, LTD.
Seven Penn Center
1635 Market Street, 11th Floor
Philadelphia, PA 19103

In re Application of :
TEMPLE UNIVERSITY . . . :
PCT No.: PCT/US2007/082605 :
Int. Filing Date: 26 October 2007 :
Priority Date: 27 October 2006 :
Docket No.: T1138/20025 : **DECISION**
For: NOVEL TUMOR ANTIGENS ELICIT ANTI-TUMOR HUMORAL IMMUNE REACTIONS IN A SUBSET OF PATIENTS WITH POLYCYTHEMIA VERA :

This is a decision on the papers filed 21 May 2008 which is treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 26 October 2007, applicant filed an international application with the United States Receiving Office (RO/US) which included, *inter alia*, eleven sheets of drawings.

On 24 January 2008, the RO/US mailed an Invitation to Correct Defects in the International Application (Form PCT/RO/106). The drawings were deemed to have several deficiencies and new drawings were required.

On 20 March 2008, applicant filed a response containing nine sheets of formal drawings.

On 21 May 2008, the RO/US mailed a Communication in Cases for Which No Other Form is Applicable (Form PCT/RO/132) indicating that the proposed replacement drawing sheets 1 - 5 do not correct the original defects and have not been entered. Replacement sheets 6 - 9 were entered.

On 21 May 2008, applicant filed the subject response requesting that sheets 1 - 5 of the replacement drawings be accepted.

DISCUSSION

Applicant argues that sheets 1 - 5 of the replacement drawings filed 20 March 2008 should be accepted by the RO/US in accordance with PCT Rule 10.1(d) and (e) and paragraph 174 of the PCT Applicants Guide, *Introduction to the International Phase*. Applicant claims that the drawing sheets are "representations of electronic photographs and should be acceptable in lieu of drawings/photographs because submission of classical silver halide-based photographs is not required."

In addition, applicant argues that the five sheets of drawings "can be reproduced by, for example, photography" pursuant to PCT Rule 11.2(d) and (e) and paragraph 147 of the PCT Applicants Guide, *Introduction to the International Phase*.

Applicant's arguments have been carefully considered; however, the decision not to enter replacement sheets 1 - 5 is upheld.

The replacement drawing sheets 1-5 are not good copies. The sheets contain shading and clarity problems and do not meet the "well-defined" standard of PCT Rule 11.13(a). Moreover, it is unclear whether the replacement drawing sheets would be properly distinguishable in reduced reproduction required by PCT Rule 11.2(a), even by photography.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.181 is **DISMISSED**.

Replacement drawing sheets 1-5 will not be entered in the above-captioned international application. New drawing sheets 1-5 with no shading or clarity problems are required.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

0 2 JUN 2009

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Larry L. Coats
Coats & Bennett PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

In re Application of: LEXMARK INTERNATIONAL, INC.	:	DECISION
PCT Application No.: PCT/US2007/082679	:	
Int. Filing Date: 26 October 2007	:	
Priority Date: 30 October 2006	:	UNDER
Atty Docket No.: 4670-549	:	
For: ELECTRICAL CONNECTORS FOR TONER	:	
CARTRIDGES IN AN IMAGE FORMING DEVICE	:	37 CFR 1.26

This decision is in response to applicant's "PETITION FOR REFUND" filed 24 March 2009, which has been treated under 37 C.F.R. 1.26. No petition fee is required.

BACKGROUND

On 26 October 2007, applicant filed international application papers with the United States Receiving Office (RO/US). In Box No. VI of the Request, the applicant claimed priority to three earlier US applications and requested the RO/US to prepare and transmit to the International Bureau certified copies of the earlier US applications. The submission included a payment of $60 for the transmission of certified copies of the priority applications to the IB.

On 24 March 2009, the applicant filed the present request for refund under 37 C.F.R. 1.26.

DISCUSSION

As of 31 August 2007, the USPTO began electronically transferring certified copies of US priority applications to the IB for PCT applications filed in the RO/US where the applicant has made a request in accordance with PCT Rule 17.1(b) and 37 CFR 1.451(b). Furthermore, the USPTO waived the required fee for the electronic transfer of certified copies of US priority documents to the IB for PCT international applications filed with the RO/US on or after 31 August 2007. Therefore, since the instant application was filed on or after 31 August 2007, the fee set out in 37 CFR 1.19(b)(1)(iii)(A), for electronically providing a copy of a patent application as filed, should have been waived.

A review of the file reveals that the fee of $60 was refunded to applicant on 29 May 2009.

CONCLUSION

For the reasons given above, the applicant's request for refund under 37 CFR 1.26 is **DISMISSED AS MOOT**.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

23 SEP 2008

Commissioner for Patents
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Robert A. Mazzarese
Strategic Patents, P.C.
c/o Intellevate
P.O. Box 52050
Minneapolis, Minnesota 55402

In re Application of :
Raytheon Company :
PCT No.: PCT/US2007/084374 :
Int. Filing Date: 10 November 2007 : DECISION
Priority Date: 10 November 2006 :
Atty. Docket No.: COGN0014PWO :
For: Bearer Selection And Negotiation In Autonomous Dynamic Spectrum Access Systems :

This is in response to the communication filed 15 February 2008.

BACKGROUND

On 10 November 2007, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned International Application No. PCT/US2007/084374.

On 06 December 2007, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (RO/102).

On 10 December 2007, applicant filed Communication Regarding Payment of Filing and Priority Fees Due.

On 08 February 2008, the RO/US mailed an Invitation to Pay Prescribed Fees Together with Late Payment (RO/133)

On 15 February 2008, applicant filed Communication Regarding Invitation To Pay Prescribed Fees Together with Late Payment Fee

DISCUSSION

The communication requests that the International Searching Authority (ISA), be changed from US to KR. As the PCT and PCT regulations do not specifically provide for a change in the ISA after the international application has been filed, such a request may only be considered by petitioning under 37 CFR 1.182, including payment of the appropriate petition fee. In the present case, petitioner has not submitted the requisite petition fee. Accordingly, the petition will not be considered under 37 CFR 1.182. Applicant should note that a petition under 37 CFR 1.182 to change the International Searching Authority from ISA/US to ISA/KR will not be granted after the search copy has been sent to the ISA/KR.

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

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

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

Stacy Duncan
Paralegal Specialist
Office of PCT Legal Administration
Tel: (571) 272-4989
Fax: (571) 273-0459

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

31 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GREGORY TUROCY
AMIN, TUROCY & CALVIN, LLP
24TH FLOOR
1900 EAST NINTH STREET
CLEVELAND OH 44114

In re Application of	:	
HO et al.	:	DECISION
PCT No.: PCT/US2007/084989	:	
Date of Receipt: 16 November 2007	:	
Priority Date Claimed: 29 September 2006	:	
Attorney's Docket No.: LMP131WO	:	
For: STABLE CENTER WAVELENGTH	:	
PERFORMANCE IN NON-RECTILINEARLY	:	
SHAPED OPTICAL INTEGRATED CIRCUIT CHIP	:	

This decision is response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 16 November 2007.

BACKGROUND

On 16 November 2007, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

DISCUSSION

Applicant has included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 60/827,573 filed 29 September 2006) was listed in Box VI-1 of the PCT Request filed 16 November 2007 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $1,410 petition fee. As such, it is appropriate to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, applicant's petition to restore the right of priority under PCT Rule 26*bis*.3 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
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

Enc.: NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

30 APR 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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JEFF LIMON
HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
MAIL STOP 35, P.O. BOX 272400
FORT COLLINS CO 80527-2400

In re Application of	:	
HEWLETT-PACKARD DEVELOPMENT COMPANY	:	DECISION
PCT No.: PCT/US2007/085469	:	
Date of Receipt: 23 November 2007	:	
Priority Date Claimed: None	:	
Attorney's Docket No.: 200703052-1	:	
For: CAMERA SENSOR SYSTEM	:	
SELF-CALIBRATION	:	

This is in response to applicant's submission filed on 15 February 2008, which has properly been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 23 November 2007, applicant filed international application papers including a Request, description, claims, abstract and drawings, with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 15 February 2008, applicant filed the instant submission.

DISCUSSION

The Request filed 23 November 2007 indicates the International Searching Authority (ISA) as ISA/US. The submission filed 15 February 2008 requests that the ISA be changed to ISA/KR. Although the PCT does not specifically provide for a change in the ISA upon request, a change in ISA is permissible with a petition under 37 CFR 1.182, including the petition fee set forth in 37 CFR 1.17(f), if the request is made timely.

Although the request was made timely, the petition fee has not been paid.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 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 1.182". A 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/

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16 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY ADMINISTRATION
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FORT COLLINS CO 80527-2400

In re Application of	:	
HEWLETT-PACKARD DEVELOPMENT COMPANY	:	DECISION
PCT No.: PCT/US2007/085469	:	
Date of Receipt: 23 November 2007	:	
Priority Date Claimed: None	:	
Attorney's Docket No.: 200703052-1	:	
For: CAMERA SENSOR SYSTEM	:	
SELF-CALIBRATION	:	

This is in response to applicant's "PETITION UNDER 37 CFR 1.182 TO CORRECT INTERNATIONAL SEARCHING AUTHORITY IN THE INTERNATIONAL APPLICATION" filed on 17 June 2008.

BACKGROUND

On 23 November 2007, applicant filed international application papers including a Request, description, claims, abstract and drawings, with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number.

On 15 February 2008, applicant filed a submission which included a new Request which differed from the original Request in that it identified the International Searching Authority (ISA) as "ISA/KR" rather than as "ISA/US".

On 30 April 2008, a decision was mailed which properly treated the submission filed 14 November 2007 as a petition under 37 CFR 1.182. The petition was dismissed without prejudice for failure to pay the petition fee.

On 17 June 2008, applicant filed the instant petition under 37 CFR 1.182.

DISCUSSION

Although the PCT does not specifically provide for a change in the ISA upon request, a change in ISA is permissible with a petition under 37 CFR 1.182, including the petition fee set

forth in 37 CFR 1.17(f), if the request is made before the search copy for the present application has been prepared and communicated. Here, the search copy has been prepared and communicated. Thus, the requested change in ISA is not permissible.

CONCLUSION

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

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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WASHINGTON DC DISTRICT OF COLUMBIA 20005

In re Application of THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS PCT No.: PCT/US07/86385 Int. Filing Date: 04 December 2007 Priority Date: 04 December 2006 Attorney Docket No.: 14PR-134419 For: COMPOSITIONS AND METHODS TO TREAT CANCER WITH CUPREDOXINS AND CpG RICH DNA	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Petition under 37 CFR 1.181 to Obtain a Refund for Unintended Duplicate Application Filed Via EFS Web" filed 31 March 2008 in the United States Receiving Office. No petition fee is required.

BACKGROUND

On 04 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. 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.

On 04 December 2008, applicant's Deposit Account was charged $300.00 (transmittal fee), $997.00 (international filing fee), $888.00 (supplemental international filing fee) and $1,800 (international search fee).

On 25 February 2008, the RO/US mailed a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102), which indicated a balance of $0. On 25 February 2007, the United States International Searching Authority (ISA/US) mailed a Notification of Receipt of Search Copy (Form PCT/ISA/202).

On 31 March 2008, applicant filed the present petition to withdraw the international application PCT/US07/86385 and to request a refund of all fees paid in that application. The petition asserts that the present application was an unintended application and a duplicate of PCT/US07/86393.

DISCUSSION

As set forth above, on 04 December 2007, applicant states that two identical applications were filed via the EFS-Web electronic filing system. The applications were assigned international application numbers PCT/US07/86385 and PCT/US07/86393. Applicant requests that one of the

duplicate applications (PCT/US07/86385) be subsequently withdrawn. The present petition also seeks a refund of the fees paid in PCT/US07/86385.[1] The petition was promptly filed within three months of the filing of the duplicate applications, and it states that the second application was filed because confirmation of receipt (i.e., an Electronic Acknowledgement Receipt) was not received with respect to the first-filed application. The petition also confirms that the duplicate application (PCT/US07/86393) was intended to be the original application, and includes the application numbers for both applications.

Pursuant to PCT Rule 90*bis*.1 and 90*bis*.5, a notice of withdrawal must be signed by all applicants. Powers of attorney appointing Don J. Pelto for this application have been provided by applicant/inventors Tapas Das Gupta and Ananda Chakrabarty. However, no power of attorney appointing Don J. Pelto has been provided by applicant The Board of Trustees of the University of Illinois,. The present application PCT/US07/86385 can not be withdrawn at this time. Applicant's request for refund is also refused at this time.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED without prejudice**.

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.

Cynthia M. Kratz
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[1] It is noted that the international fee is payable to the IB. The USPTO has no authority to refund IB fees absent a withdrawal prior to transmittal of the record copy (see PCT Rule 15.6).

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KAUNG-TI YUNG
3424 1/2 WARD STREET
PITTSBURGH, PA 15213-4318

In re Application of YUNG :
PCT Application No.: PCT/US2007/087496 :
Int. Filing Date: 13 December 2007 : DECISION
Priority Date Claimed: 19 December 2006 :
Attorney Docket No.: fbag121307a :
For: FLOWER-SHAPED BAG :

This is in response to applicant's petition filed 13 February 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 13 December 2007, applicant filed two separate sets of international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The first submission was assigned International Application Number PCT/US2007/087488. The second submission was assigned International Application Number PCT/US2007/087496.

On 13 February 2008, applicant filed the present petition, requesting that the two applications be merged and the filing fees for one of the applications be refunded.

DISCUSSION

The Office will grant a refund for an unintended, duplicate application filed via EFS-Web provided that: (1) the duplicate submissions were made via EFS-Web on or after 16 March 2006; (2) the request for refund is filed within three months of the first application in which an acknowledgement by the Office was received; (3) the petition includes a statement certifying that the later filed application was submitted prior to receiving confirmation of receipt of the first application; (4) the petition includes a statement from either a registered practitioner or a person with firsthand knowledge stating that the duplicate application was intended to be the original application; and (5) the petition includes a statement that the duplicate application is requested to be withdrawn.

In the present case, the petition satisfies items (1) and (2) above. However, the petition fails to include the statements specified in items (3), (4), (5) above.

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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30 JUN 2008

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J. ALBERT RIDDLE
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2929 ALLEN PARKWAY, SUITE 2100
HOUSTON TX TEXAS 77019-2118

In re Application of	:	
BAKER HUGHES, Inc.	:	
PCT No.: PCT/US2007/088320	:	DECISION
Int. Filing Date: 20 December 2007	:	
Priority Date: 14 December 2006	:	ON PETITION UNDER
Docket No.: 594-44508-WO	:	
For: ACOUSTIC FLUID ANALYSIS METHOD	:	37 CFR 1.181

This decision is in response to applicant's Response to the Invitation to Correct Priority Claim, filed in the United States Patent and Trademark Office on 11 March 2008.

BACKGROUND

On 20 December 2007, applicant filed international application PCT/US2007/088320 via EFS Web. The electronic information entered indicated the title was Multi-Purpose Pressure Test, but the documents uploaded listed ACOUSTIC FLUID ANALYSIS METHOD.

On 03 March 2008, the Office mailed an Invitation to Correct Priority Claim (Form PCT/RO/110) among other papers indicating that the priority claim did not fall within the 12 months prior to the filing of the international application.

On 11 March 2008, applicant filed this response, accompanied by the electronic filing receipt for PCT/US07/87621.

DISCUSSION

The specification, claims and drawings filed in PCT/US07/87621 on 14 December 2007, appear the same as those filed in PCT/US07/88320, on 20 December 2007. However, PCT/US07/88320 was correctly accorded an international filing date of 20 December 2007 because the papers were filed on that day. As noted above, the electronic data entered for PCT/US07/88320, indicates that perhaps a different filing was desired.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date is **DISMISSED** without prejudice.

The application is being returned to the RO/US for continued processing.

/Erin P. Thomson/

Erin P. Thomson
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Frank J. Mycroft
Townsend and Townsend and Crew
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of	:	
The Regents of the University Of California,	:	
et al	:	
PCT No.: PCT/US2007/088686	:	
Int. Filing Date: 21 December 2007	:	DECISION
Priority Date: 22 December 2006	:	
Atty. Docket No.: 2307K-1844-1	:	
For: New Fusion Molecule Based On Novel TAA Variant	:	

This is in response to the petition under 37 CFR.1.181 filed 20 February 2008.

BACKGROUND

On 21 December 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2007/088676. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2007/088686.

On 20 February 2008, applicant filed the present petition under 37 CFR 1.181.

On 29 February 2008, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (RO/105) and NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (RO/102) for both international applications PCT/US2007/88676 and PCT/US2007/088686.

DISCUSSION

The petition states that applicant filed the duplicate submission because it was unclear whether the first submission was received by the EFS-Web system. Petitioner has certified that the later-filed application was submitted prior to receiving confirmation of receipt of the first-filed application. Furthermore, petitioner has stated that the duplicate application was intended to be the original application. Accordingly, withdrawal of the duplicate application and a refund of the submitted fees are permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants." In the present case, the request to withdraw international application PCT/US2007/088686 is signed by agent Frank Mycroft. Although Mr. Mycroft has been properly appointed by the first listed applicant (see power of attorney filed 21 December 2007), a power of attorney from the remaining applicants has not been furnished. Therefore, pursuant to PCT Rule 90bis.5 (a), the present request to withdraw international application PCT/US2007/088686 cannot be approved at the present time.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 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. Extension of time are available under 37 CFR 1.136 (a).

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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18 JUL 2008

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In re Application of :
The Regents of the University Of California, :
et al :
PCT No.: PCT/US2007/088686 :
Int. Filing Date: 21 December 2007 : DECISION
Priority Date: 22 December 2006 :
Atty. Docket No.: 2307K-1844-1 :
For: New Fusion Molecule Based On :
Novel TAA Variant :

This is in response to the petition under 37 CFR.1.181 filed 20 February 2008.

BACKGROUND

On 21 December 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2007/088676. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2007/088686.

On 20 February 2008, applicant filed the present petition under 37 CFR 1.181.

On 29 February 2008, the United States Receiving Office (RO/US) mailed a NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (RO/105) and NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (RO/102) for both international applications PCT/US2007/88676 and PCT/US2007/088686.

DISCUSSION

The petition states that applicant filed the duplicate submission because it was unclear whether the first submission was received by the EFS-Web system. Petitioner has certified that the later-filed application was submitted prior to receiving confirmation of receipt of the first-filed application. Furthermore, petitioner has stated that the duplicate application was intended to be the original application. Accordingly, withdrawal of the duplicate application and a refund of the submitted fees are permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants." In the present case, the request to withdraw international application PCT/US2007/088686 is signed by agent Frank Mycroft. Although Mr. Mycroft has been properly appointed by the first listed applicant (see power of attorney filed 21 December 2007), a power of attorney from the remaining applicants has not been furnished. Therefore, pursuant to PCT Rule 90bis.5 (a), the present request to withdraw international application PCT/US2007/088686 cannot be approved at the present time.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 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. Extension of time are available under 37 CFR 1.136 (a).

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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24 JUN 2008

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In re Application of	:	
MORENO	:	
PCT No.: PCT/US07/88867	:	DECISION ON PETITION
Int. Filing Date: 26 December 2007	:	
Priority Date: 24 December 2006	:	UNDER 37 CFR 1.181
Attorney Docket No.: MORENO03	:	
For: SYSTEMS AND METHOD FOR MOBILE PAYMENT	:	

This is a decision on applicant's correspondence filed in the United States Patent and Trademark Office (USPTO) on 18 March 2008. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 26 December 2007, applicant filed a PCT Request with the USPTO which claimed priority of an earlier provisional U.S. application filed 24 December 2006.

On 30 January 2007, applicant was mailed a "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) indicating an international filing date of 26 December 2007. The Form PCT/RO/110 indicated that the priority claim did not fall within the period of 12 months proceeding the international filing date.

On 18 March 2008, applicant filed the present petition.

DISCUSSION

As detailed in applicant's petition, an examination of USPTO records finds that as stated in the Official Gazette notice of 14 December 2007, the office was closed on 24 December 2007 and 25 December 2007. Therefore, pursuant to PCT Rule 80.5, the filing of the international application on 26 December 2007 occurred on the next business day and therefore the priority claim dated 24 December 2006 is considered to have been timely made; falling within the proceeding 12 months. The "Invitation to Correct Priority Claim" (Form PCT/RO/110) mailed 30 January 2008 is hereby **VACATED**.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application is being returned to the United States Receiving Office (RO/US) for continued processing.

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CC: International Bureau of WIPO
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30 JUN 2008

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KAREN KAUFMAN
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In re Application of	:	
GIGLE SEMICONDUCTOR, Inc.	:	DECISION
PCT No.: PCT/US2008/000020	:	
Int. Filing Date: 02 January 2008	:	ON PETITION UNDER
Priority Date: 02 January 2007	:	
Docket No.: PA3967PCT	:	37 CFR 1.10(c)
For: UNKNOWN DESTINATION TRAFFIC REPETITION	:	

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 18 March 2008.

BACKGROUND

Applicant filed international application PCT/US2008/000020 via Express Mail.

On 05 March 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 03 January 2008.

On 18 March 2008, 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 02 January 2008. 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 has supplied 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 02 January 2008 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) 18 March 2008, is **VACATED**.

The application is being returned to the United States Receiving Office for continued processing.

/Erin P. Thomson/

Erin P. Thomson
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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

28 JAN 2009

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KRISTIN C. CASTLE
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In re Application of
WESTERNOFF
PCT No.: PCT/US08/00133
Int. Filing Date: 03 January 2008
Priority Date: 01 September 2007
Attorney Docket No.: None
For: ON-LINE BUILDING REGISTRY

DECISION ON PETITION

TO VACATE NOTIFICATION

OF WITHDRAWAL OF

INTERNATIONAL APPLICATION

This is a decision on applicant's submission filed on 31 July 2008 entitled "Petition to Reconsider Withdrawal of International Application". The submission requests withdrawal of the 31 July 2008 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). No petition fee is required. As discussed below, the petition to vacate the notification of withdrawal of international application is **dismissed**.

BACKGROUND

On 03 January 2008, applicant filed international application No. PCT/US08/00133, which claimed priority to an earlier United States application indicating a priority date of 01 September 2007.

On 06 March 2008, a Notification Concerning Payment of Prescribed Fees (PCT/RO/102) was mailed to applicant, indicating that the Receiving Office has received no or insufficient payment of the prescribed fees in the amount of $65 and advised that the fees must be paid within one month from the date of receipt of the international application.

On 07 May 2008, the United States Receiving Office (US/RO) mailed an Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) to applicant. Applicant was advised to pay the fees totaling $365 ($65 for total unpaid fees, $300 for late payment fee). The fees were to be paid within one month of the notice or by 07 June 2008.

On 30 May 2008, applicant filed a response to Notification Concerning Payment of Prescribed Fees along with a check in the amount of $65.

On 01 July 2008, a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was mailed to applicant indicating that the international application was considered withdrawn for failure to pay the prescribed fees. The Notification indicated that "within the time limit referred to in that invitation [Form PCT/RO/133]: the amounts paid are not sufficient to cover the transmittal fee, the international filing fee, the search fee and the late payment fee".

On 31 July 2008, applicant filed the instant petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). Applicant requests that the 31 July 2008 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) be vacated.

DISCUSSION

Under PCT Rule 16*bis*.1 and 16*bis*.2, where the applicant has not paid any or all of the fees within the time they are due, 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. See* PCT Rule 16*bis*.1 and PCT Applicant's Guide, ¶211.

Where the applicant has not paid any or all of the fees within the time by which they are due, any payment relating to the missing amount must be considered to have been received within the time by which those fees are due, if the payment is received by the receiving Office before that Office sends the invitation to pay prescribed fees with late payment fee to pay the missing amount. See PCT Rule 16*bis*.2 and PCT Applicant's Guide, ¶212.

Pursuant to PCT Article 14(3) and Rule 16bis.1(c), if the transmittal fee, the international filing fee and the search fee are not paid 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. 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.

The original 30 May 2008 filing is located in the file. A review of the application file reveals that on 30 May 2008, the USPTO received a check to pay some of prescribed fees due in PCT/US08/00133. However the 30 May 2008 submission is not considered a timely response to 07 May 2008 Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133). The late payment fee of $300 was not paid and was required by one month of the mailing of the Form PCT/RO/133 or by 07 June 2008. Since the late payment fee was not paid by 07 June 2008, (that is, within one month of the mailing of the Form PCT/RO/133), the international application was considered to be withdrawn by the US Receiving Office. Applicant did not pay the late payment fee before the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was sent on 01 July 2008. The international application PCT/US08/00133 remains withdrawn.

Applicant indicates that she "never received a form 133". Applicant may wish to consider filing a petition under 37 CFR 1.181 to establish non-receipt of an Office action (Form 133). A petition under 37 CFR 1.181 would require a proper showing as set forth in MPEP Section 711.03(c).

CONCLUSION

The petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) is **DISMISSED**.

The Notification That International Application Considered to be Withdrawn (Form

PCT/RO/117) mailed on 01 July 2008 remains in effect.

International application PCT/US08/00133 remains withdrawn.

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28 JAN 2009

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In re Application of
WESTERNOFF
PCT No.: PCT/US08/00133
Int. Filing Date: 03 January 2008
Priority Date: 01 September 2007
Attorney Docket No.: None
For: ON-LINE BUILDING REGISTRY

DECISION ON PETITION TO VACATE NOTIFICATION OF WITHDRAWAL OF INTERNATIONAL APPLICATION

This is a decision on applicant's submission filed on 31 July 2008 entitled "Petition to Reconsider Withdrawal of International Application". The submission requests withdrawal of the 31 July 2008 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). No petition fee is required. As discussed below, the petition to vacate the notification of withdrawal of international application is **dismissed**.

BACKGROUND

On 03 January 2008, applicant filed international application No. PCT/US08/00133, which claimed priority to an earlier United States application indicating a priority date of 01 September 2007.

On 06 March 2008, a Notification Concerning Payment of Prescribed Fees (PCT/RO/102) was mailed to applicant, indicating that the Receiving Office has received no or insufficient payment of the prescribed fees in the amount of $65 and advised that the fees must be paid within one month from the date of receipt of the international application.

On 07 May 2008, the United States Receiving Office (US/RO) mailed an Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) to applicant. Applicant was advised to pay the fees totaling $365 ($65 for total unpaid fees, $300 for late payment fee). The fees were to be paid within one month of the notice or by 07 June 2008.

On 30 May 2008, applicant filed a response to Notification Concerning Payment of Prescribed Fees along with a check in the amount of $65.

On 01 July 2008, a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was mailed to applicant indicating that the international application was considered withdrawn for failure to pay the prescribed fees. The Notification indicated that "within the time limit referred to in that invitation [Form PCT/RO/133]: the amounts paid are not sufficient to cover the transmittal fee, the international filing fee, the search fee and the late payment fee".

Exhibit A

On 31 July 2008, applicant filed the instant petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). Applicant requests that the 31 July 2008 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) be vacated.

DISCUSSION

Under PCT Rule 16*bis*.1 and 16*bis*.2, where the applicant has not paid any or all of the fees within the time they are due, 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. See* PCT Rule 16*bis*.1 and PCT Applicant's Guide, ¶211.

Where the applicant has not paid any or all of the fees within the time by which they are due, any payment relating to the missing amount must be considered to have been received within the time by which those fees are due, if the payment is received by the receiving Office before that Office sends the invitation to pay prescribed fees with late payment fee to pay the missing amount. See PCT Rule 16*bis*.2 and PCT Applicant's Guide, ¶212.

Pursuant to PCT Article 14(3) and Rule 16bis.1(c), if the transmittal fee, the international filing fee and the search fee are not paid 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. 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.

The original 30 May 2008 filing is located in the file. A review of the application file reveals that on 30 May 2008, the USPTO received a check to pay some of prescribed fees due in PCT/US08/00133. However the 30 May 2008 submission is not considered a timely response to 07 May 2008 Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133). The late payment fee of $300 was not paid and was required by one month of the mailing of the Form PCT/RO/133 or by 07 June 2008. Since the late payment fee was not paid by 07 June 2008, (that is, within one month of the mailing of the Form PCT/RO/133), the international application was considered to be withdrawn by the US Receiving Office. Applicant did not pay the late payment fee before the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was sent on 01 July 2008. The international application PCT/US08/00133 remains withdrawn.

Applicant indicates that she "never received a form 133". Applicant may wish to consider filing a petition under 37 CFR 1.181 to establish non-receipt of an Office action (Form 133). A petition under 37 CFR 1.181 would require a proper showing as set forth in MPEP Section 711.03(c).

CONCLUSION

The petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) is **DISMISSED**.

The Notification That International Application Considered to be Withdrawn (Form

PCT/RO/117) mailed on 01 July 2008 remains in effect.

International application PCT/US08/00133 remains withdrawn.

Cynthia M. Kratz
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PCT Legal Office

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Docket No.: 1001-003

Application No.: 11/651,421
Filing Date: 01/09/07
Inventor: W. Gary Westernoff
Title: On-Line Building Registry

Included in Submission:

1. Transmittal letter;
2. Request (3 pages);
3. Fee Calculation Sheet (1 page);
4. PCT Power of Attorney (1 page);
5. Declaration (2 pages);
6. Specification (24 pages), Claims (4 pages), drawings (4 pages) & Abstract (1 page); and
7. Return receipt postcard.

Exhibit B

23 FEB 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

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96 OAKMONT AVE.
PIEDMONT CA CALIFORNIA 94610

In re Application of WESTERNOFF PCT No.: PCT/US08/00133 Int. Filing Date: 03 January 2008 Attorney Docket No.: None For: ON-LINE BUILDING REGISTRY	DECISION ON PETITION UNDER 37 CFR 1.181 TO VACATE WITHDRAWAL OF INTERNATIONAL APPLICATION

This is a decision on applicant's submission filed on 27 March and 03 December 2009 entitled "Petition under 37 CFR 1.181". The submissions request withdrawal of the 31 July 2008 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). No petition fee is required. As discussed below, the petition under 37 CFR 1.181 for non-receipt of the Notification of Withdrawal of International Application is **dismissed**.

BACKGROUND

On 06 March 2008, a Notification Concerning Payment of Prescribed Fees (PCT/RO/102) was mailed to applicant, indicating that the Receiving Office has received no or insufficient payment of the prescribed fees in the amount of $65 and advised that the fees must be paid within one month from the date of receipt of the international application.

On 07 May 2008, the United States Receiving Office (US/RO) mailed an Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) to applicant. Applicant was advised to pay the fees totaling $360. The fees were to be paid within one month of the notice or by 07 June 2008.

On 30 May 2008, applicant filed a response to Notification Concerning Payment of Prescribed Fees along with a check in the amount of $65.

On 01 July 2008, a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was mailed to applicant indicating that the international application was considered withdrawn for failure to pay the prescribed fees. The Notification indicated that "within the time limit referred to in that invitation [Form PCT/RO/133]: the amounts paid are not sufficient to cover the transmittal fee, the international filing fee, the search fee and the late payment fee".

On 31 July 2008, applicant filed a petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). Applicant requests that the 31 July 2008 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) be vacated.

On 28 January 2009, a decision dismissing the request to vacate the "Notification That International Application Considered to be Withdrawn (Form PCT/RO/117)" was mailed to applicant. The decision explained that a petition under 37 CFR 1.181 should be considered to establish non-receipt of an Office action (Form 133).

On 27 March 2009, applicant filed a petition under 37 CFR 1.181 requesting that the Notification of Withdrawal of International Application be vacated. On 03 December 2009, applicant filed a second petition under 37 CFR 1.181.

DISCUSSION

Petitioner requests reconsideration of the 28 January 2009 decision and, in effect, wishes to establish non-receipt of an Office action. Petitioner states that the Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) mailed on 07 May 2008 was never received.

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. No petition fee is required.

MPEP Section 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.
>
> The 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.

Practitioner states that she did not receive the PCT/RO/133 and that the PCT/RO/133 is not in the file jacket. [1]

---

[1] Petitioner indicates the response to the PCT/RO/101 [sic] was influenced by the incorrect priority date on the document. The PCT/RO/102, which is directed to insufficient fees, was mailed on 06 March 2008. This form advised applicant that the balance of fees was due within ONE month of the date of the receipt of the international application (or by 03 February 2008) or "within sixteen months of the priority date (only for the fee for the priority document)". Applicant was further advised: "The applicant's attention is drawn to the fact that the request made by the applicant under Rule 17.1(b) will be considered not to have been made unless the fee is paid within that time limit".

To establish non-receipt of the Office action, Practitioner makes the statement that the Office action was not received by the practitioner. However, the petition does not satisfy the remaining requirements set forth in the MPEP Section 711.03(c), Section I.A. The petition does not 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. This statement must establish that the docketing system is sufficiently reliable. The docketing record should include the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner does not 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. Furthermore, *a copy of the record 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. 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. This is to assure that the Office action in question was not, in fact, received and mistakenly docketed to another application.

Therefore, Applicant should provide a copy of the master office docket for the date on which a response to the Notification was due. *The Office generally requires, as the appropriate docket record for establishing nonreceipt of an Office communication, a record of 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 on 09 June 2008 (07 June 2008 was a Saturday and 07 June 2008 was a Sunday) for the present case). MPEP 711.03(c)IA.

Thus, applicant has not provided the proper showing necessary to withdraw the holding of abandonment as explained above. The petition may not be properly granted at this time.

CONCLUSION

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

The application remains abandoned.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision.

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

/Cynthia M. Kratz/
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DATE 06-19-08 APPLICATION NUMBER US08/01097

DOC CODE ~~PCT~~ PET.DOC, OTH DOC DATE 06.19.08

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

20 JUN 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

HELEN C. LOCKHART
WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Application of
REGENTS OF THE UNIVERSITY OF COLORADO
PCT No.: PCT/US08/01097
Int. Filing Date: 28 January 2008
Priority Date: 26 January 2007
Atty. Docket No.: V0223.70000
For: METHODS OF MODULATING IMMUNE FUNCTION

DECISION ON PETITION

UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "PETITION TO ESTABLISH INTERNATIONAL FILING DATE UNDER 37 CFR §1.10" filed 24 April 2008 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 26 January 2007.

The United States Receiving Office (US/RO) accorded the application an international filing date of 28 January 2008. 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 26 March 2008.

On 24 April 2008, applicant filed the present petition seeking an international filing date of 28 January 2008.

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).

The "date-in" date on the mailing label shows a date of "1-28-08." As such, it was appropriate for the RO/US to accord the present application an international filing date of 28 January 2008.

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 26 January 2008. As evidenced by applicant's filing, the Express Mail mailing in question was deposited with the USPS on 26 January 2008 for mailing. However, there was a typographical error on the number of the corporate account to which the postage was to be charged. Because of this error the Express Mail mailing was considered to not have sufficient postage and was returned to applicant on 28 January 2008. On 28 January 2008, applicant corrected the error and the mailing was accorded a "Date-In" date of 28 January 2008. Applicant has not provided sufficient evidence to support the contention that in spite of the lack of postage on 26 January 2008, the USPS should have accorded a "Date-In" date of 26 January 2008.

The track and confirm data provided while showing a "Service Calculation Acceptance" date of 26 January 2008 clearly shows that the parcel was returned to "WOLF GREEN SACKS" on 28 January 2008. In addition, while the customer copy of the Express Mail label contains a USPS barrel stamp indicating "JAN 26 2008" the copy supplied showing postage contains barrel

stamps marked "JAN 28 2008" along with postage of $21.40 which matches the amount indicated as lacking on the "RETURNED FOR ADD'L POSTAGE" stamp.

As applicant has not provided any evidence from the USPS showing that a "date-in" date of 26 January 2008 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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16 JUN 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

WESLEY W. MONROE
CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

In re Application of	:	
FLEKTOR, Inc.	:	DECISION
PCT No.: PCT/US2008/001130	:	
Int. Filing Date: 28 January 2008	:	ON PETITION UNDER
Priority Date: 26 January 2007	:	
Docket No.: 61341P/F462	:	37 CFR 1.10(c)
For: SYSTEM AND METHOD FOR EDITING WEB-BASED VIDEO	:	

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 31 March 2008.

BACKGROUND

Applicant filed international application PCT/US2008/001130 via Express Mail.

On 26 March 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 29 January 2008 and an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110).

On 31 March 2008, 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 28 January 2008. 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 has supplied a photocopy of the Express Mail mailing label, showing the "date-in".

However, applicant is advised with the alteration of the international filing date, application 12/011,770 filed 28 January 2008 is not a proper priority claim as its filing date does not fall within the 12 months preceding the international filing date.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the international filing date to 03 October 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 26 March 2008, 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

1 4 JUL 2008

United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
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GIDEON CLIFTON
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UNITED KINGDOM

In re Application of	:	
Clifton	:	
PCT No.: PCT/US2008/001466	:	
Int. Filing Date: 04 February 2008	:	DECISION
Priority Date: 09 February 2007	:	
Attorney's Docket No.: N/A	:	
For: Echo Translator	:	

This is in response to the correspondence filed on 29 April 2008 and 06 May 2008 .

BACKGROUND

On 04 February 2008, applicant filed this purported international application.

On 17 March 2008, an Invitation To Correct The Purported International Application (Form PCT/RO/103) was mailed to applicant, indicating that the "application does not contain a part which on the face of it appears to be a description" and that the "application does not contain a part which on the face of it appears to be a claim or claims."

DISCUSSION

Applicant seeks to "keep my PCT filing date on Feb 4th 2008," requesting "an incorporation by reference to my previous US Patent application (application number: 11/704,677)." PCT Rule 4.18 provides that

> where the international application, on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, claims the priority of an earlier application, the request may contain a statement that, where an element of the international application referred to in Article 11(1)(iii)(d) or (e) or a part of the description, claims or drawings referred to in Rule 20.5(a) is not otherwise contained in the international application but is completely contained in the earlier application, that element or part is, subject to confirmation under Rule 20.6, incorporated by reference in the international application for the purposes of Rule 20.6. Such a statement, if not contained in the request on that date, may be added to the request if, and only if, it was otherwise contained in, or submitted with, the international application on that date.

While PCT Rule 20.6 provides that

> (a) The applicant may submit to the receiving Office, within the applicable time limit under Rule 20.7, a written notice confirming that an element or part is incorporated by reference in the international application under Rule 4.18, accompanied by:
>
> (i) a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned;

(ii) where the applicant has not already complied with Rule 17.1(a), (b) or (b-bis) in relation to the priority document, a copy of the earlier application as filed;

(iii) where the earlier application is not in the language in which the international application is filed, a translation of the earlier application into that language or, where a translation of the international application is required under Rule 12.3(a) or 12.4(a), a translation of the earlier application into both the language in which the international application is filed and the language of that translation; and

(iv) in the case of a part of the description, claims or drawings, an indication as to where that part is contained in the earlier application and, where applicable, in any translation referred to in item (iii).

(b) Where the receiving Office finds that the requirements of Rule 4.18 and paragraph (a) have been complied with and that the element or part referred to in paragraph (a) is completely contained in the earlier application concerned, that element or part shall be considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office.

(c) Where the receiving Office finds that a requirement under Rule 4.18 or paragraph (a) has not been complied with or that the element or part referred to in paragraph (a) is not completely contained in the earlier application concerned, the receiving Office shall proceed as provided for in Rule 20.3(b)(i), 20.5(b) or 20.5(c), as the case may be.

In the instant case, the PCT Request (Form PCT/RO/101) filed on 04 February 2008 included a claim of priority to earlier U.S. application 11/704,677, as well as a statement in satisfaction of PCT Rule 4.18. The instant correspondence was received within the applicable time limit under PCT Rule 20.7. Applicant requests "an incorporation by reference to my previous US Patent application (application number: 11/704,677) in order to keep my PCT filing date on Feb 4th 2008 claiming prior rights to Feb 9th 2007 (application number: 11/704,677) and have attached a copy of the following documents (and 2 copies by post): Description Page 1-40 Claims Page 41-46 Abstract Page 47 Replacement Sheets Page 48-57 which are the same as my previous US Patent application for your reference." This statement is being accepted as an appropriate confirmation, and indication as to where the parts were contained in the earlier application. As such, pursuant to Rule 20.6(b), the description, claims, drawings and abstract accompanying the correspondence filed on 29 April 2008, are considered to have been contained in the purported international application on 04 February 2008.

DECISION

Applicant's request is **GRANTED** as discussed above.

This international application is being returned to the United States Receiving Office (RO/US) for further processing. Its international filing date is **04 February 2008**.

/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

24 DEC 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANADA

In re Application of :
GENIZON BIOSCIENCES :
Application No.: PCT/US2008/001529 :
Int. Filing Date: 06 February 2008 : DECISION
Priority Date: 06 February 2007 :
Attorney's Docket No.: GENI02401WO :
For: GENEMAP OF THE HUMAN GENES :
ASSOCIATED WITH ENDOMETRIOSIS :

This is in response to applicant's "Petition for the Resubmission of Tables in Electronic Format" filed 20 October 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

On 06 February 2008, 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 October 2008, applicant filed the present petition.

DISCUSSION

The evidence of record is sufficient to establish that the complete sequence listing related tables were originally filed on 06 February 2008. Specifically, the copy of the return postcard, which includes the complete sequence listing related tables in its itemized contents and which bears a USPTO date stamp of 06 February 2008, serves as *prima facie* evidence that the complete sequence listing related tables were received by the USPTO on 06 February 2008.

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.

Susan C. Wolski
PCT Special Programs Examiner
Office of Patent Cooperation Treaty
Legal Administration

Bryan Lin
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scw:bl

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01 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Karen Kaufman
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In re Application of
NOMINIUM, INC.
PCT No.: PCT/US2008/001745
Int. Filing Date: 07 February 2008
Priority Date: 07 February 2007
Docket No.: PA3789PCT
For: COMPOSITE DNS ZONES

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 01 April 2008 which are treated as a petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicant filed the subject international application PCT/US2008/001745 using Express Mail service. The papers were deemed as received by the RO/US on 08 February 2008.

On 21 March 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 (IFD) of the subject application is 08 February 2008 with a priority date of 07 February 2007.

On 01 April 2008, applicant filed the above-captioned petition which was accompanied by, *inter alia*, a copy of the Customer Copy of USPS Express Mail label No. EM007147178US.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be amended to 07 February 2008.

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 07 February 2008. Applicant included a copy of the Customer Copy of Express Mail label No. EM007147178US which has a "Date Accepted" of "02 07 08" and is stamped by the USPS on its face as received in Palo Alto, CA on "FEB 7 2008."

In addition, a review of USPS Track/Confirm records verify that Express Mail No. EM007147178US was deposited with the USPS in Palo Alto, CA on 07 February 2008 at 4:39pm. As such, it is clear that the proper international filing date should be 07 February 2008.

CONCLUSION

Applicant's petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/RO/105 mailed 21 March 2008 is hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an IFD date of **07 February 2008** and a priority date of 07 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 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

06 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
www.uspto.gov

Kourosh Salehi
OSTROLENK, FABER, GERB & SOFFEN
1180 Avenue of the Americas
New York, New York, 10036-8403

In re Application of:
KENSEY et al.
PCT Application No.: PCT/US2008/001782
Int. Filing Date: 11 February 2008
Priority Date: 06 February 2007
Atty Docket No.: P/4953-19
For: BLOOD VOLUME ANALYZER

DECISION

This decision is in response to applicant's "PETITION TO CORRECT INTERNATIONAL FILING DATE PERSUANT TO C.F.R § 1.10(c) AND C.F.R. 1.183" filed 05 June 2008, which has been treated as a petition under 37 CFR § 1.10(c) and 37 CFR §1.183.

BACKGROUND

As indicated on the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed on 01 April 2008, the present application was accorded an international filing date of 11 February 2008 by the United States Receiving Office (RO/US).

On 05 June 2008, applicant filed the present petition requesting the international filing date be corrected to 06 February 2008. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 287858991US.

DISCUSSION

Applicant requests that the IFD in the above-captioned international application be corrected to 06 February 2008.

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) also identified the "Express Mail" label number of EV933196769US. However, the Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post (PS Form 5541) in Exhibit 4 with the Express Mail label number is lacking signature from a USPS employee to fulfill the "date-in" requirement. Absence the signature, applicant has not provided the proof that the present application was accepted by the USPS on 06 February 2008. The Express Mail Cooperate Account Mailing Statement has been considered but it also failed to indicate the mailing of the application on the date in question. Accordingly, the international filing date remains 11 February 2008.

Applicant also requested consideration under 37 C.F.R. 1.183. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f). As the requisite fee has not been provided, the petition under 37 C.F.R. 1.183 has not been considered.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 06 February 2008 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(c)." 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 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

0 3 JUN 2009

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

Kourosh Salehi
OSTROLENK, FABER, GERB & SOFFEN
1180 Avenue of the Americas
New York, New York, 10036-8403

In re Application of:	:	
KENSEY et al.	:	DECISION
PCT Application No.: PCT/US2008/001782	:	
Int. Filing Date: 11 February 2008	:	
Priority Date: 06 February 2007	:	
Atty Docket No.: P/4953-19	:	
For: BLOOD VOLUME ANALYZER	:	
	:	

This decision is in response to applicant's "PETITION TO CORRECT INTERNATIONAL FILING DATE PERSUANT TO C.F.R § 1.183" filed 05 March 2009.

BACKGROUND

On 05 June 2008, applicant filed a petition requesting the international filing date be corrected to 06 February 2008. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 287858991US.

On 01 January 2009, this Office mailed a decision dismissing the petition decision under 37 CFR 1.10.

On 05 March 2009, applicants filed a petition under 37 CFR 1.183 with the requisite petition fee of $400.

DISCUSSION

Applicants request that the International filing date in the above-captioned international application be corrected to 06 February 2008.

37 CFR 1.183 states,

> In an extraordinary situation, when justice re-quires, 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).

The instant petition requests waiver of the requirement under 37 CFR 1.10 (d) for showing of a "date-in " date of 06 February 2008 on the "Express Mail" mailing label by the USPS.

The statutory authority for the granting of a filing date based on the date of deposit with the United States Postal Service for correspondence sent by "Express Mail" and received by the Office is found in section 21(a) of Title 35 of the United States Code. As the statute allows the Director to assign a filing date to any paper or fees on the date it was deposited with the United States Service. The USPS records shows that the application was deposited on 11 February 2008. The Express Mail requirement is set by the statute and cannot be waived by this Office. Moreover, the inadvertent failure to obtain a signature from the USPS employee on the Pickup Service Statement to comply with the requirements is not deemed to be an extraordinary situation that would warrant waiver of the rule.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 06 February 2008 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 1.183." 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 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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Leonard Smith
Supervisory Legal Examiner
Office of PCT Legal Administration

1 8 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DAVID FONDA
2425 SOUTH 900 WEST
SALT LAKE CITY UT 84119

In re Application of	:	
CERAMATEC, INC.	:	DECISION ON
PCT No.: PCT/US2008/002079	:	
Int. Filing Date: 15 February 2008	:	PETITION UNDER
Priority Date: 16 February 2007	:	
Attorney Docket No.: 3000.2.11PCT	:	37 CFR 1.181
For: NOX SENSOR WITH IMPROVED	:	
SELECTIVITY AND SENSITIVITY	:	

This decision is in response to applicant's petition under 37 CFR 1.181 filed on 24 April 2008. No petition fee is due.

BACKGROUND

On 02 April 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 above-identified international application an international filing date of 15 February 2008

On 02 April 2008, the RO/US also mailed a NOTIFICATION REGARDING CERTAIN CORRECTIONS MADE EX OFFICIO (Form PCT/RO/146) indicating that page 3 of the Request filed 15 February 2008 had been corrected to indicate that the application contained no drawing sheets rather than the 16 drawing sheets indicated in the Request.

On 24 April 2008, applicant filed the instant petition under 37 CFR 1.181. The petition was accompanied by, inter alia, a copy of an unstamped postcard receipt, two copies of a USPTO date-stamped postcard receipt, and a copy of the 16 drawing sheets purportedly filed 15 February 2008.

DISCUSSION

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. While the unstamped postcard is legible and clearly shows 16 pages of drawings, the two copies of the date-stamped postcard receipt are illegible. Thus, they do not serve as evidence of what was actually submitted. (The

unstamped postcard does not serve as evidence either because it merely shows what was intended to be submitted.) No explanation has been provided as to why the unstamped copy is legible but the date-stamped copies are illegible. Accordingly, it would be inappropriate to accept the drawings filed 24 April 2008 as having been originally received in the USPTO on15 February 2008.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED** for the reasons set forth above.

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 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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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11 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

DAVID FONDA
2425 SOUTH 900 WEST
SALT LAKE CITY UT 84119

In re Application of	:	
CERAMATEC, INC.	:	DECISION ON
PCT No.: PCT/US2008/002079	:	
Int. Filing Date: 15 February 2008	:	PETITION UNDER
Priority Date: 16 February 2007	:	
Attorney Docket No.: 3000.2.11PCT	:	37 CFR 1.181
For: NOX SENSOR WITH IMPROVED	:	
SELECTIVITY AND SENSITIVITY	:	

This decision is in response to applicant's renewed petitions under 37 CFR 1.181 filed on 14 October 2008 and 17 April 2009. No petition fee is due.

BACKGROUND

On 02 April 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 above-identified international application an international filing date of 15 February 2008

On 02 April 2008, the RO/US also mailed a NOTIFICATION REGARDING CERTAIN CORRECTIONS MADE EX OFFICIO (Form PCT/RO/146) indicating that page 3 of the Request filed 15 February 2008 had been corrected to indicate that the application contained no drawing sheets rather than the 16 drawing sheets indicated in the Request.

On 24 April 2008, applicant filed a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of an unstamped postcard receipt, two copies of a USPTO date-stamped postcard receipt, and a copy of the 16 drawing sheets purportedly filed 15 February 2008.

On 18 August 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181. Specifically, it was noted that the date-stamped copy of the postcard receipt provided by applicant was illegible.

On 14 October 2008, applicant filed a renewed petition under 37 CFR 1.181 which was accompanied by photographs of, *inter alia*, the date-stamped postcard receipt. However, when the photographs were scanned, the images of the date-stamped postcard receipt became unreadable.

On 17 April 2009, in response to a telephone interview with the undersigned, applicant filed a second renewed petition under 37 CFR 1.181. This submission was also accompanied by photographs of, *inter alia*, the date-stamped postcard receipt.

DISCUSSION

Because of the issues related to the loss of information when the photographs were scanned into the electronic file, the photographs filed 17 April 2009 were reviewed and annotated by the undersigned before scanning. As noted by the undersigned on Exhibits B, E, F, and G, the photographs show that the date-stamped postcard receipt lists "16 pgs" of "Drawings". The photographed date-stamped postcard receipt itself was not annotated (although the photographs were annotated by the undersigned). Thus, applicant has provided sufficient evidence to establish that on 15 February 2008 applicant filed 16 pages of drawings. The proof is in the form of the above-mentioned copy of the postcard receipt for the above-identified application which bears a United States Patent and Trademark Office date stamp of 15 February 2008 and which itemizes, *inter alia*, 16 pages of drawings. This postcard receipt also identifies the above-captioned title and attorney docket number. Accordingly, it is appropriate, on the present record, to accept the copy of the drawings filed 24 April 2008 as having been originally filed in the RO/US on 15 February 2008.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The application is being returned to the RO/US for processing in accordance with

this decision including according the copy of the drawings of the international application filed 24 April 2008 a receipt date of 15 February 2008.

/Daniel Stemmer/

Daniel Stemmer
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

11 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID FONDA
2425 SOUTH 900 WEST
SALT LAKE CITY UT 84119

In re Application of	:	
CERAMATEC, INC.	:	DECISION ON
PCT No.: PCT/US2008/002079	:	
Int. Filing Date: 15 February 2008	:	PETITION UNDER
Priority Date: 16 February 2007	:	
Attorney Docket No.: 3000.2.11PCT	:	37 CFR 1.181
For: NOX SENSOR WITH IMPROVED	:	
SELECTIVITY AND SENSITIVITY	:	

This decision is in response to applicant's renewed petitions under 37 CFR 1.181 filed on 14 October 2008 and 17 April 2009. No petition fee is due.

BACKGROUND

On 02 April 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 above-identified international application an international filing date of 15 February 2008

On 02 April 2008, the RO/US also mailed a NOTIFICATION REGARDING CERTAIN CORRECTIONS MADE EX OFFICIO (Form PCT/RO/146) indicating that page 3 of the Request filed 15 February 2008 had been corrected to indicate that the application contained no drawing sheets rather than the 16 drawing sheets indicated in the Request.

On 24 April 2008, applicant filed a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of an unstamped postcard receipt, two copies of a USPTO date-stamped postcard receipt, and a copy of the 16 drawing sheets purportedly filed 15 February 2008.

On 18 August 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181. Specifically, it was noted that the date-stamped copy of the postcard receipt provided by applicant was illegible.

On 14 October 2008, applicant filed a renewed petition under 37 CFR 1.181 which was accompanied by photographs of, *inter alia*, the date-stamped postcard receipt. However, when the photographs were scanned, the images of the date-stamped postcard receipt became unreadable.

On 17 April 2009, in response to a telephone interview with the undersigned, applicant filed a second renewed petition under 37 CFR 1.181. This submission was also accompanied by photographs of, *inter alia*, the date-stamped postcard receipt.

DISCUSSION

Because of the issues related to the loss of information when the photographs were scanned into the electronic file, the photographs filed 17 April 2009 were reviewed and annotated by the undersigned before scanning. As noted by the undersigned on Exhibits B, E, F, and G, the photographs show that the date-stamped postcard receipt lists "16 pgs" of "Drawings". The photographed date-stamped postcard receipt itself was not annotated (although the photographs were annotated by the undersigned). Thus, applicant has provided sufficient evidence to establish that on 15 February 2008 applicant filed 16 pages of drawings. The proof is in the form of the above-mentioned copy of the postcard receipt for the above-identified application which bears a United States Patent and Trademark Office date stamp of 15 February 2008 and which itemizes, *inter alia*, 16 pages of drawings. This postcard receipt also identifies the above-captioned title and attorney docket number. Accordingly, it is appropriate, on the present record, to accept the copy of the drawings filed 24 April 2008 as having been originally filed in the RO/US on 15 February 2008.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The application is being returned to the RO/US for processing in accordance with

this decision including according the copy of the drawings of the international application filed 24 April 2008 a receipt date of 15 February 2008.

/Daniel Stemmer/

Daniel Stemmer
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

16 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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BO-IN LIN
13445 MANDOLI DRIVE
LOS ALTOS HILLS CA CALIFORNIA 94022

In re Application of OLYMPUS CORP.	:	DECISION ON
PCT No.: PCT/US08/02823	:	
Int. Filing: 02 March 2008	:	PETITION
Priority Date: 02 March 2007	:	
Attorney Docket No.: SQ-0696	:	UNDER 37 CFR 1.10(c)
For: COLOR DISPLAY SYSTEM	:	

This decision is in response to applicant's "Petition to Correct Filing Date for PCT International Application", treated as a petition under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office (USPTO) on 30 October 2008, to accord a filing date of 02 March 2008 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US08/02823 with the United States Receiving Office, claiming a priority date of 02 March 2007 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 03 March 2008.

On 09 April 2008, the Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) was mailed.

On 30 October 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.

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 #EB811146238US, which bears a USPS barrel stamp date of "MAR 2 2008" and a "Date-In" of "3/2/08". The transmittal letter having "Express Mail" mailing label Express Mail #EB811146238US 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 2 March 2008. Specifically, the "Express Mail" label number ("EB811146238US") 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 2 March 2008.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of 2 March 2008 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 09 April 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 2 March 2008.

This application will be forwarded to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

/Cynthia M. Kratz/

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

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 08/02823

International Filing Date (- 2 MAR 2008 (8))

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)* SQ-0696

Box No. I TITLE OF INVENTION

COLOR DISPLAY 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.)*

Olympus Corporation
ShinjukuMonolith, 3-1 Nishi-Shinjuku 2-chome
Shinjuku-ku, Tokyo 163-0914
Japan

Telephone No.
(650)926-9487

Facsimile No.

Applicant's registration No. with the Office

State *(that is, country)* of nationality:
Japan

State *(that is, country)* of residence:
Japan

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.)*

Lin, Bo-In
13445 Mandoli Drive
Los Altos Hills, CA 94022
United States of America

Telephone No.
(650)949-0418

Facsimile No.
(650)949-4118

Agent's registration No. with the Office
33,948

☐ **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.

17 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Marie Helene Rochon
OGILVY RENAULT LLP
1981 McGill College, Suite 1600
Montreal, Quebec H3A 2Y3
Canada

In re Application of :
GENIZON BIOSCIENCES, INC. :
PCT No.: PCT/US2008/003125 :
Int. Filing Date: 10 March 2008 :
Priority Date: 08 March 2007 : **DECISION**
Attorney's Docket No.: 15136601 :
For: GENEMAP OF THE HUMAN GENES :
ASSOCIATED WITH SCHIZOPHRENIA :

This decision is in response to applicant's request for refund of fees submitted on 19 November 2008 which is hereby **GRANTED** as follows:

Applicant submitted $1,800.00 in response to an Invitation to Pay Additional Fees and, Where Applicable, Protest Fee (Form PCT/ISA/206) on 03 September 2008.

However, the Form PCT/ISA/206 was mailed 14 July 2008 and provided only one month to respond. Thus, applicant was too late to pay the fee.

Accordingly, the $1,800.00 in fees submitted on 03 September 2008 will be credited back to Deposit Account No. 19-5113 as authorized.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

06 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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James V. Harmon, Sr.
U.S. Bank Plaza, Suite 2000
220 South Sixth Street
Minneapolis, MN 55402

In re Application of	:	
JAMES V. HARMON, SR.	:	
PCT No.: PCT/US08/03181	:	DECISION UNDER
Int. Filing Date: 07 March 2008	:	37 CFR 1.181
Priority Date: 07 March 2007	:	
Agent's File Reference: None	:	
For: INTERNAL COMBUSTION ENGINE WITH AUXILIARY STEAM POWER RECOVERED FROM WASTE HEAT	:	

Applicant's 02 May 2008 communication is being treated as a petition under 37 CFR 1.181 requesting correction of the international filing date from 10 March 2008 to 07 March 2008. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 07 March 2008, applicant filed international application PCT/US08/03181, which claimed priority to a U.S. application filed 07 March 2007.

On 10 April 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) indicating a 10 March 2008 international filing date. Additionally, the RO/US mailed, inter alia, an "INVITATION TO CORRECT PRIORITY CLAIM" (Form PCT/RO/110) which indicated that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 02 May 2008, applicant filed the present petition informing the RO/US that the 10 March 2008 international filing date is incorrect and should be changed to 07 March 2008.

DISCUSSION

A review of the "Express Mail" Post Office To Addressee label of record in the application file reveals that applicant deposited the papers for the present international application with the USPS "Express Mail" on 07 March 2008 as "Express Mail" label no. ER112373890US. The copy of "Express Mail" label no. ER112373890US filed with the

present petition indicates 07 March 2008 as the "Date-In". Furthermore, the "Track and Confirm" database of the USPS indicates 07 March 2008 as the date of deposit. Therefore, the 10 March 2008 international filing date as indicated on the Form PCT/RO/105 mailed 10 April 2008 is incorrect. The correct international filing date for the present international application is 07 March 2008.

CONCLUSION

Applicant's 02 May 2008 petition to correct the international filing date from 10 March 2008 to 07 March 2008 is hereby **GRANTED.** The Forms PCT/RO/105 and PCT/RO/110 mailed 10 April 2008 are **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 2008 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

Copy to:
THE INTERNATIONAL BUREAU OF WIPO
34 Chemin des Colombettes
1211 Geneve 20
SUISSE

Enclosures: copy of corrected Form PCT /RO/105
and copy of corrected first page of PCT Request.

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 08/03181

International Filing Date 7 MAR 2008

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)*

Box No. I TITLE OF INVENTION

INTERNAL COMBUSTION ENGINE WITH AUXILIARY STEAM POWER RECOVERED FROM WASTE HEAT

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.)*

HARMON, James V., Sr.
56 Pine Street
Mahtomedi, MN 55115
US

Telephone No. 612-339-1400

Facsimile No. 612-349-2908

Applicant's registration No. with the Office 18,940

State *(that is, country)* of nationality: U.S.

State *(that is, country)* of residence: U.S.

This person is applicant for the purposes of: [ ] all designated States [X] 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)

[X] 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: [X] 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.)*

(Self)
HARMON, James V., Sr.
US Bank Plaza, Suite 2000
220South Sixth Street
Minneapolis, MN 55402

Telephone No. 612-339-1400

Facsimile No. 612-349-2908

Agent's registration No. with the Office 18,940

[ ] **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.

3 0 JUL 2009

United States Patent and Trademark Office

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

SCOTT A. WHITAKER
BIONUMERIK PHARMACEUTICALS, INC.
8122 DATAPOINT DRIVE, SUITE 1250
SAN ANTONIO TX 78229

In re Application of	:	/
BIONUMERIK PHARMACEUTICALS, INC	:	DECISION
PCT No.: PCT/US2008/003406	:	
Int. Filing Date: 14 March 2008	:	ON
Priority Date: N/A	:	
Attorney's Docket No.: X-0256A-PCT	:	PETITION
For: Chemoprotective Methods And Compositions	:	

This is in response to applicant's "Request For Reconsideration" filed on 23 April 2009.

BACKGROUND

Applicants filed this international application with the United States receiving Office on 14 March 2008.

On 14 April 2008, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) reflecting an international filing date of "14 Mar 2008" and no earlier priority date was mailed to counsel. Also mailed were three Invitations To Correct Priority Claim (Forms PCT/RO/110) referring to purported priority claims to applications filed on 13 DEC 2005, 12 MAR 2008 and 13 DEC 2006.

On 06 April 2009, a Notification Relating To Priority Claim (Form PCT/RO/111) was mailed, indicating that the priority claims to 60/750,292 and 11/638,193 were 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."

DISCUSSION

Applicant requests in effect that the Form PCT/RO/111 be withdrawn and that the international application be accorded a priority date of 13 December 2006. Counsel asserts that "a Reply to the Invitation To Correct Priority Claim (dated April 14, 2008) was correctly filed by the Applicant, via USPS Express Mail, on July 10, 2008," and has enclosed evidence in support of that position.

Review of the PCT Request (Form PCT/RO/101) filed on 14 March 2008 reveals that it refers to two U.S. applications in Box No. VI Priority Claim, 60/750,292 filed 13 December 2005 and 11/638,193 filed 13 December 2006. PCT Article 8(2) provides that

> (a) Subject to the provisions of subparagraph (b), the conditions for, and the effect of, any priority claim declared under paragraph (1) shall be as provided in Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property.

(b) The international application for which the priority of one or more earlier applications filed in or for a Contracting State is claimed may contain the designation of that State. Where, in the international application, the priority of one or more national applications filed in or for a designated State is claimed, or where the priority of an international application having designated only one State is claimed, the conditions for, and the effect of, the priority claim in that State shall be governed by the national law of that State.

Article 4 of the Paris Convention provides for a 12-month priority period. Since neither of the prior applications to which priority was claimed were filed within 12 months of the international filing date, the priority claims were facially defective.

It is not necessary to reach the issue of whether applicant filed a reply on 10 July 2008, since that date is later than the time limit provided for by PCT Rule 26bis.1(a). The last date on which a priority claim to 11/638,193 (filed 13 December 2006) could have been corrected or added was 13 April 2008, 16 months after its filing date. Thus, even if a notice correcting or adding the priority claim were filed as urged by applicant, it would not have been timely. For these reasons, it would not be appropriate to grant the requested relief on the basis of the present record.

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
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

25 SEP 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Brian DONOHUE
MORRISON & FORRESTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of	:	
ONTHERIX, INC.	:	
Application No.: PCT/US2008/003622	:	
Int. Filing Date: 19 MARCH 2008	:	DECISION
Priority Date: 19 MARCH 2007	:	
Attorney's Docket No.: 543862000146	:	
For: METAL-BINDING THERAPEUTIC PEPTIDES	:	

This is in response to the "Letter Requesting Issuance of Search Report and Withdrawal of Form 203" received 01 October 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

On 19 March 2008, applicants filed international application PCT/US2008/003622. Although the description contained disclosure of nucleotide and amino acid sequences, no sequence listing was filed as a separate part of the description or in computer readable form.

On 18 July 2008, the United States International Searching Authority (ISA/US) issued 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 a Reply Due within One month from the date of mailing.

On 12 August 2008, applicants filed a "Communication Regarding Sequence Information Complying with WIPO Standards ST25," which included: a sequence listing, as a paper copy and in computer readable form and the required statement.

On 16 September 2008, the ISA/US issued a "Declaration of Non-Establishment of International Search Report" (Form PCT/ISA/203) and a "Written Opinion of the International Searching Authority" (Form PCT/ISA/237) indicating that a meaningful search could not be carried out without the sequence listing and that applicant did not, within the prescribed time limit, furnish a sequence listing in electronic form complying with the standard.

On 01 October 2008, applicant filed the instant petition under 37 CFR 1.181.

DISCUSSION

ISA/US records indicate receipt on 12 August 2008, of a sequence listing both in paper and computer-readable form, together with a statement indicating that the two forms are identical and do not go beyond the disclosure in the international application as filed. Therefore, applicant complied with the "Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" within the Due Date of 18 August 2008.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The "Declaration of Non-Establishment of International Search Report" (Form PCT/ISA/203) and "Written Opinion of the International Searching Authority" (Form PCT/ISA/237) were issued in error, and are hereby VACATED.

The application is being returned to the International Searching Authority for preparation and issuance of the International Search Report and Written Opinion of the International Searching Authority, which takes into consideration the timely-filed sequence listing.

Susan C. Wolski
PCT Special Programs Examiner
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3304
Facsimile: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration

13 NOV 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

THERAQUEST BIOSCIENCES, INC.
146 MEDINAH DRIVE
BLUE BELL PA 19422-3212

In re Application of	:	
THERAQUEST BIOSCIENCES, INC.	:	DECISION
PCT No.: PCT/US2008/004059	:	
Int. Filing Date: 26 March 2008	:	
Priority Date: 26 March 2007	:	
Attorney's Docket No.: 032608SADNSD	:	
For: SUBANALGESIC DOSES OF DRUG COMBINATIONS	:	

This decision is in response to applicant's petition under 37 CFR 1.10(c) filed 26 April 2008. (Duplicate copies of the petition were filed on 28 April 2008 and 04 September 2008.)

BACKGROUND

On 16 April 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) indicating an international filing date of 28 March 2008.

On 16 April 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 filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 26 April 2008, applicant submitted the instant petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of an Online Record of the "Express Mail Post Office to Addressee" mailing label #EO946062567US. The "Date In" on the mailing label is blank.

DISCUSSION

Although Form PCT/RO/105 indicated the international filing date of the above-identified application as 28 March 2008, 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 26 March 2008.

Specifically, the "Express Mail" label number ("EO946062567US") appears on the cover letter, which also refers to, *inter alia*, an international application and lists the above-identified attorney docket number and title. As discussed above, the "Date In" entry in the copy of the Online Record of the "Express Mail" label is blank. Nevertheless, a printout from the "U.S. Postal Service Track & Confirm" e-mail Restoration service (copy of image enclosed) confirms that the correspondence having this Express Mail mailing label number was accepted by the USPS on 26 March 2008.

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 26 March 2008 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 16 April 2008 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 16 April 2008 is also **VACATED**.

The application is being returned to the RO/US for continued processing.

/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 image from the "U.S. Postal Service Track & Confirm" e-mail Restoration service for Express Mail mailing label number EO946062567US
-Corrected Form PCT/RO/105

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

U.S. Postal Service Track & Confirm email Restoration - E094 6062 567U S - Message (Plain Text)

File Edit View Insert Format Tools Actions Help

Reply | Reply to All | Forward

Extra line breaks in this message were removed.

From: U.S._Postal_Service_[U.S._Postal_Service@usps.com] Sent: Wed 11/12/2008 1:18 PM

To: Stemmer, Dan

Cc:

Subject: U.S. Postal Service Track & Confirm email Restoration - E094 6062 567U S

This is a post-only message. Please do not respond.

Daniel Stemmer has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: E094 6062 567U S

Service Type: Express Mail PO-Add

Shipment Activity	Location	Date & Time
Delivered	ALEXANDRIA VA 22314	03/28/08 11:18am
Arrival at Unit	ALEXANDRIA VA 22314	03/28/08 7:08am
Processed	MERRIFIELD VA 22081	03/27/08 11:35pm
Processed	DULLES VA 20102	03/27/08 6:41pm
Processed	PHILADELPHIA PA 19153	03/26/08 11:39pm
Acceptance	PHILADELPHIA PA 19104	03/26/08 10:03pm

Electronic Shipping Info Received BLUE BELL PA 19422
03/26/08 8:20pm
Electronic Shipping

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

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13 NOV 2008

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

THERAQUEST BIOSCIENCES, INC.
146 MEDINAH DRIVE
BLUE BELL PA 19422-3212

In re Application of	:	
THERAQUEST BIOSCIENCES, INC.	:	DECISION
PCT No.: PCT/US2008/004059	:	
Int. Filing Date: 26 March 2008	:	
Priority Date: 26 March 2007	:	
Attorney's Docket No.: 032608SADNSD	:	
For: SUBANALGESIC DOSES OF DRUG COMBINATIONS	:	

This decision is in response to applicant's petition under 37 CFR 1.10(c) filed 26 April 2008. (Duplicate copies of the petition were filed on 28 April 2008 and 04 September 2008.)

BACKGROUND

On 16 April 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) indicating an international filing date of 28 March 2008.

On 16 April 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 filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 26 April 2008, applicant submitted the instant petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of an Online Record of the "Express Mail Post Office to Addressee" mailing label #EO946062567US. The "Date In" on the mailing label is blank.

DISCUSSION

Although Form PCT/RO/105 indicated the international filing date of the above-identified application as 28 March 2008, 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 26 March 2008.

Specifically, the "Express Mail" label number ("EO946062567US") appears on the cover letter, which also refers to, *inter alia*, an international application and lists the above-identified attorney docket number and title. As discussed above, the "Date In" entry in the copy of the Online Record of the "Express Mail" label is blank. Nevertheless, a printout from the "U.S. Postal Service Track & Confirm" e-mail Restoration service (copy of image enclosed) confirms that the correspondence having this Express Mail mailing label number was accepted by the USPS on 26 March 2008.

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 26 March 2008 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 16 April 2008 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 16 April 2008 is also **VACATED**.

The application is being returned to the RO/US for continued processing.

/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 image from the "U.S. Postal Service Track & Confirm" e-mail Restoration service for Express Mail mailing label number EO946062567US
-Corrected Form PCT/RO/105

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

U.S. Postal Service Track & Confirm email Restoration - E094 6062 567U S - Message (Plain Text)

File Edit View Insert Format Tools Actions Help

Reply | Reply to All | Forward

Extra line breaks in this message were removed.

From: U.S. Postal Service [U.S. Postal Service@usps.com] Sent: Wed 11/12/2008 1:16 PM

To: Stemmer, Dan

Cc:

Subject: U.S. Postal Service Track & Confirm email Restoration - E094 6062 567U S

This is a post-only message. Please do not respond.

Daniel Stemmer has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: E094 6062 567U S

Service Type: Express Mail PO-Add

Shipment Activity	Location	Date & Time
Delivered	ALEXANDRIA VA 22314	03/28/08 11:18am
Arrival at Unit	ALEXANDRIA VA 22314	03/28/08 7:08am
Processed	MERRIFIELD VA 22081	03/27/08 11:35pm
Processed	DULLES VA 20102	03/27/08 6:41pm
Processed	PHILADELPHIA PA 19153	03/26/08 11:39pm
Acceptance	PHILADELPHIA PA 19104	03/26/08 10:03pm
Electronic Shipping Info Received 03/26/08 8:20pm Electronic Shipping	BLUE BELL PA 19422	

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm

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28 APR 2009

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

Lisa E. Stahl
Buchanan, Ingersoll & Rooney PC
1737 King Street, Suite 500
Alexandria VA 22314

In re Application of :
CHYNA LLC. :
PCT No.: PCT/US2008/004071 :
Int. Filing Date: 28 March 2008 :
Priority Date: None : DECISION
Attorney Docket No.: 0072998-003PCT :
For: THE USE OF FERRITIN TO TREAT :
IRON DEFICIENCY DISORDERS :

This decision is issued in response to applicant's "Petition under 37 CFR 1.181 for Acceptance of Application" filed 06 June 2008 to confirm the 28 March 2008 filing of the materials initiating the above-captioned international application. No petition fee is required.

BACKGROUND

On 28 March 2008, applicant filed materials to initiate an international application. The submission included the following: Request (Form PCT/RO/101) (4 pages); PCT Fee Calculation Sheet; $3,619 fee payment; description (28 pages); claims (2 pages including 19 claims); drawings (20 pages); and an abstract. These papers were assigned international application no. PCT/US2008/004071.

On 06 June 2008, applicant filed the correspondence considered as a petition herein. Applicant requests the acceptance of the PCT application based on the attached evidence, and further requests the application be assigned an international serial number and accorded the filing date of 28 March 2008.

DISCUSSION

The present application file includes the original application materials filed by applicants herein, and the receipt date for such materials identified in the application file is 28 March 2008. Accordingly, applicant's present petition requesting that such materials be entered and accorded a filing date of 28 March 2008 is moot.

CONCLUSION

The "Petition under 37 CFR 1.181 for Acceptance of Application" filed 06 June 2008 is DISMISSED AS MOOT.

The original application materials filed herein (i.e., Request (Form PCT/RO/101) (4 pages); PCT Fee Calculation Sheet; $3,619 fee payment; description (28 pages); claims (2 pages including 19 claims); drawings (20 pages); and an abstract) are present in the application file and have been assigned a filing date of 28 March 2008.

This application is being referred to the United States Receiving Office (RO/US) for further processing in accordance with this decision.

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

17 SEP 2008

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WILLIAM C. CRAY
CYMER, INC.
LEGAL DEPT., MS/4-2D
17075 THORNMINT COURT
SAN DIEGO, CA 92127-2413

In re Application of CYMER, INC. :
PCT Application No.: PCT/US2008/004598 :
Int. Filing Date: 09 April 2008 :
Priority Date Claimed: 13 April 2007 : DECISION
Attorney Docket No.: 2006-0031-03 :
For: METHOD AND APPARATUS FOR :
STABILIZING AND TUNING THE :
BANDWIDTH OF LASER LIGHT :

This is in response to applicant's "Response to Notification Relating to Priority Claim and Request for Corrected Filing Date in the International Application" filed 30 June 2008, which is being treated as a petition under 37 CFR 1.10(d). No petition fee is due.

BACKGROUND

On 09 April 2008, 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 09 April 2008.

On 29 April 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 02 June 2008, the RO/US mailed a Notification Relating to Priority Claim (Form PCT/RO/111), which stated that certain priority claims are considered void.

On 30 June 2008, 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."

The present petition states that the USPS postal clerk incorrectly entered 09 April 2008 as the date of deposit on the Express Mail mailing label.

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 (Form PTO-1382) and the Customer Copy of the Express Mail mailing label indicates that the Express Mail number was placed on the application papers prior to the original mailing by Express Mail.

With regard to item (3), the petition does not contain an adequate showing of deposit (e.g. an affidavit signed by the person who actually mailed the correspondence in question) stating that the application was personally deposited in Express Mail on 10 April 2009. Furthermore, the petition does not include corroborating evidence from the USPS or that came into being after deposit and within one business day of the deposit in Express Mail. See MPEP 513, Section VI.

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

06 FEB 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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WILLIAM C. CRAY
CYMER, INC.
LEGAL DEPT., MS/4-2D
17075 THORNMINT COURT
SAN DIEGO, CA 92127-2413

In re Application of CYMER, INC.	:	
PCT Application No.: PCT/US2008/004598	:	
Int. Filing Date: 09 April 2008	:	
Priority Date Claimed: 13 April 2007	:	DECISION
Attorney Docket No.: 2006-0031-03	:	
For: METHOD AND APPARATUS FOR STABILIZING AND TUNING THE BANDWIDTH OF LASER LIGHT	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.10(d)" filed 08 December 2008.

BACKGROUND

On 09 April 2008, 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 09 April 2008.

On 29 April 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 02 June 2008, the RO/US mailed a Notification Relating to Priority Claim (Form PCT/RO/111), which stated that certain priority claims are considered void.

On 30 June 2008, applicant a present petition under 37 CFR 1.10(d).

On 17 September 2008, this Office mailed a decision dismissing the 30 June 2008 petition.

On 08 December 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."

The petition states that the USPS postal clerk incorrectly entered 09 April 2008 as the date of deposit on the Express Mail mailing label.

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 renewed petition contains an adequate showing of deposit (e.g. an affidavit signed by Sarah Briggs, the person who actually mailed the correspondence in question) stating that the application was personally deposited in Express Mail on 10 April 2008. However, as stated in the decision mailed 17 September 2008, applicant has not supplied corroborating evidence from the USPS or that came into being after deposit and within one business day of the deposit in Express Mail. See MPEP 513, Section VI.

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

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH J. CRIMALDI
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222 SOUTH MAIN STREET
AKRON OH OHIO 44308

In re Application of	:	
The University of Akron	:	
PCT No.: PCT/US2008/004870	:	DECISION
Int. Filing Date: 14 April 2008	:	
Priority Date: 12 April 2007	:	ON PETITION UNDER
Docket No.: 089498.0654	:	
For: INJECTIBLE CYANOACRYLATE-FUNCTIONALIZED POLYISOBUTYLENES	:	37 CFR 1.181

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 01 July 2008.

BACKGROUND

Applicant filed international application PCT/US2008/004870 via Express Mail.

On 01 May 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 15 April 2008 and an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110).

On 01 July 2008, applicant submitted a petition to correct the international filing date of the application.

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 a specification, claims, drawings, PCT Easy Disk, new application transmittal and a request form. The postcard identifies this application by title and applicant. The postcard is stamped "14 April 2008" by the Office. The above items are accepted as having been received 14 April 2008.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date to 14 April 2008 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 01 May 2008, 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

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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

12 MAY 2008

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United States Patent and Trademark Office
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www.uspto.gov

JAMES FINN
C/O WILLIAM TUCKER
2631 LAKEFOREST CT.
DALLAS TX 75214

In re Application of	:	
PARATEK MICROWAVE, INC.	:	DECISION
PCT No.: PCT/US2008/004919	:	
Date of Receipt: 16 April 2008	:	
Priority Date Claimed: 22 March 2007	:	
Attorney's Docket No.: WJT08-0116	:	
For: CAPACITORS ADAPTED FOR ACOUSTIC RESONANCE CANCELLATION	:	

This decision is response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 16 April 2008.

On 16 April 2008, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

Applicant has included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 11/726,458 filed 22 March 2007) was listed in Box VI of the PCT Request filed 16 April 2008 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $1,410 petition fee. As such, it is appropriate to grant applicant's petition at this time.

For the reasons discussed above, applicant's petition to restore the right of priority under PCT Rule 26*bis*.3 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (PCT/RO/105) mailed 02 May 2008 indicated the priority date as 08 August 2007. This NOTIFICATION is hereby VACATED. A new PCT/RO/105 indicating the priority date as 22 March 2007 is attached.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
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

Enc.: NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (PCT/RO/105)

NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

1 3 NOV 2008

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ROBERT B. FAMIGLIO
P.O. BOX 1999
MEDIA PA PENNSYLVANIA 19063

In re Application of: SEIDEL, Randy R., et al.
PCT No.: PCT/US2008/005134
International Filing Date: 21 April 2008
Priority Date: 20 April 2007
Atty Docket No.: 4624-4
For: APPARATUS AND METHOD FOR HIGH SPEED DOCUMENT COLLATION FOR INSERT INTO NEWSPAPER AND OTHER PRINTED MEDIA

DECISION ON PETITION

This decision is issued in response to applicant's "Petition To The Commissioner Under 37 CFR 1.181 Et Al. To Confirm Reinstatement Of Application Withdrawn By Receiving Office August 6, 2008" filed 02 October 2008. No petition fee is required.

BACKGROUND

On 21 April 2008, applicant filed materials to initiate international application PCT/US2008/005134. The application was not accompanied by payment of the required fees.

On 09 May 2008, the United States Receiving Office (RO/US) mailed a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) indicating that $3,437.00 in fees were required.

On 17 June 2008, the RO/US mailed an "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) informing applicant that the outstanding fees, plus $597.00 in late payment fees, were required. The Form PCT/RO/133 indicated that such fees were required within thirty days, and that the failure to pay the required fees would result in withdrawal of the international application.

On 25 July 2008, applicants filed a response to the Form PCT/RO/133 including a Form PTO-2038 authorizing a charge to applicant's credit card for the required fees. Pursuant to this authorization, petitioner's credit card was charged $3,437.00. Petitioner's credit card was not, however, charged the required $597.00 late fee.

On 06 August 2008, the RO/US mailed a "Notification That International Application Considered To Be Withdrawn" (Form PCT/RO/117) indicating that, based on applicant's failure to pay all required fees, the present international application was considered to be withdrawn.

On 18 September 2008, applicant filed correspondence indicating that the fee authorization filed 25 July 2008 authorized a charge for all fees, including the late fees, and that withdrawal of the application was therefore inappropriate. The submission also authorized a charge to Deposit Account No. 50-0386 for the $597.00 late fee that was not charged pursuant ot the previously submitted credit card authorization. Pursuant to this authorization, Deposit Account No. 50-0386 was charged the required late payment fee.

On 02 October 2008, applicant filed the petition considered herein. The petition requests confirmation that the present application has been reinstated based on applicant's timely submission of all required fees.

On 10 November 2008, applicant filed a supplement to the present petition, including a copy of the fee payment materials originally filed 25 July 2008.

DISCUSSION

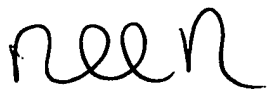
Based on applicant's statements in the present petition and supplement thereto, the materials accompanying the supplement, the application file, and USPTO records, it is concluded that petitioner submitted a Form PTO-2038 authorizing a charge for all required fees (including the $597.00 late fee) on 25 July 2008, prior to the 06 August 2008 mailing of the "Notification That International Application Considered To Be Withdrawn." Pursuant to PCT Rule 16bis.1(e), because the fee authorization was received by the RO/US prior to the mailing of the "Notification That International Application Considered To Be Withdrawn," the fees are considered filed before the expiration of the applicable time period. The "Notification That International Application Considered To Be Withdrawn" mailed 06 August 2008, based as it was on applicant's purported failure to pay all required fees within the applicable time period, is therefore appropriately vacated.

CONCLUSION

Applicant's petition requesting confirmation that the present application is not considered withdrawn is **GRANTED**.

The "Notification That International Application Considered To Be Withdrawn" (Form PCT/RO/117) mailed 06 August 2008 is hereby **VACATED**.

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



Richard M. Ross
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05 SEP 2008

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DAVID M. FORTUNATO
36 BEACON HILL DRIVE
CHESTER NJ NEW JERSEY 07930

In re Application of	:	
DAVID M. FORTUNATO	:	DECISION ON PETITION
PCT No.: PCT/US08/05323	:	
Int. Filing Date: 25 April 2008	:	
Priority Date: 28 April 2007	:	
Attorney Docket No.: PCT-2008-001	:	
For: DEVICE, SYSTEM, NETWORK AND METHOD FOR ACQUIRING CONTENT	:	

This is a decision on applicant's "Petition to Change International Searching Authority and Partial Refund of Search Fee under 37 CFR 1.182" requesting a change in International Searching Authority from the United States to Korea and refund of overpayment of search fee filed on 14 June 2008.

37 CFR 1.446 states, in part:

> (d) The international and search fees will be refunded if no international filing date is accorded or if the application is withdrawn before transmittal of the record copy to the International Bureau (PCT Rules 15.6 and 16.2). The search fee will be refunded if the application is withdrawn before transmittal of the search copy to the International Searching Authority. The transmittal fee will not be refunded.

Here, the search copy was transmitted to the ISA/US on 14 May 2008. See Notification of Receipt of Search Copy (Form/ISA/202) mailed to applicant on 18 May 2008 indicating such. With regard to the request for refund, the international search fee ($1800) is not refundable by this Office since the search copy was already forwarded to the International Searching Authority (ISA/US) on 14 May 2008. Moreover, the International Searching Authority/ United States (ISA/US) has issued the International Search Report and Written Opinion (PCT Rule 16.2(ii)) on 7 July 2008. Thus, applicant's request to change the international searching authority and refund of search fee is REFUSED.

Please direct further correspondence with respect to this matter 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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18 NOV 2008

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Michael W. Ferrell
Ferrells, PLLC
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Clifton, Virginia 20124-1706

In re Application of :
POLYPLASTICS CO., LTD. :
PCT No.: PCT/US08/05502 : DECISION ON PETITION
Int. Filing Date: 29 April 2008 :
Priority Date: 02 May 2007 :
Attorney Docket No.: TAP-07-1 PCT :
For: THERMOFORMED ARTICLES FROM SHEET INCORPORATING CYCLOOLEFIN COPOLYMER :

This decision is issued in response to applicant's "Petition" filed 03 July 2008. The petition requests to change the international searching authority for the above-identified application to the Korean Intellectual Property Office (ISA/KR).

On 29 April 2008, applicant filed international application PCT/US08/05502, which claimed priority of an earlier US application filed 02 May 2007. In Box No. VII-1 International Searching Authority, applicant indicated the Japanese Patent Office (ISA/JP), a non-competent International Searching Authority, as the International Searching Authority. The Receiving Office/United States corrected *ex officio* the international searching authority to the International Searching Authority/United States (ISA/US).

However, in situations where applicant requests a non-competent International Searching Authority and more than one searching authority is available to the applicant, the receiving office shall invite the applicant to choose a competent authority. (See Receiving Office Guidelines ¶115, PCT/GL/RO/6, page 30.) Since applicant was not given the opportunity to choose a competent searching authority and has filed a petition to change the searching authority, the International Search Report (Form PCT/ISA/210) mailed 20 August 2008 and the Written Opinion of the International Searching Authority (Form PCT/ISA/237) mailed 20 August 2008 are hereby VACATED.

Applicant's petition is GRANTED.

The $1800 search fee for ISA/US will be refunded to Deposit Account no. 50-0935. The $244 search fee for KP/ISA will be charged to Deposit Account no. 50-0935.

This application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision, including preparing the search copy of this application and forwarding the search copy of this application to the Korean Intellectual Property Office (ISA/KR) in its capacity as the International Searching Authority together with a copy of this decision.

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IAP16 Rec'd PCT/PTO 08 MAY 2009
08 MAY 2009

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In re Application of :
MICHAEL VON MAYENBURG, et al :
PCT No.: PCT/US08/05883 : DECISION UNDER
Int. Filing Date: 08 May 2008 : 37 CFR 1.10(d)
Priority Date: 22 June 2007 :
Agent's File Reference: 7417-7894705 :
For: INTERNAL COMBUSTION ENGINE WITH :
VARIABLE COMPRESSION RATIO

This decision is in response to applicants' communication filed 13 March 2009, which requests that the filing date of International Application No. PCT/US08/05883 be corrected from 08 May 2008 to 07 May 2008. 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 28 May 2008), International Application No. PCT/US08/05883 was accorded a filing date of 08 May 2008 by the United States Receiving Office (RO/US). The customer copy of the "Express Mail" label no. EV668298796US filed with the present petition indicates a "Date-In" of 08 May 2008. However, the "Track & Confirm" database of the USPS indicates a date of deposit of 07 May 2008.

On 13 March 2009, the present petition was filed requesting that International Application No. PCT/US08/05883 be accorded a filing date of 07 May 2008 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. EV668298796US was placed on the transmittal letter which accompanied the original application papers. 37 CFR 1.10(d)(2). However, applicants have provided conflicting evidence regarding the "Date-In". The copy of the "Post Office To Addressee" copy of "Express Mail" Label No. EV668298796US indicates an 08 May 2008 date of deposit. But the "Track & Confirm" database of the USPS indicates a "Date-In" of 07 May 2008. In view of the discrepancy between the handwritten "Date In" on the copy of the "Express Mail" label and the "Track & Confirm" database of the USPS, additional corroborating evidence from the USPS is required. Absent such additional corroborating evidence, the date indicated on the "Express Mail" label as the "Date In" controls. Accordingly, the requirements under 37 CFR 1.10(d) have not been satisfied.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.10(d) is **DISMISSED without prejudice.** The Form PCT/RO/105 mailed 28 May 2008 remains of record.

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.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/RC:jf

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UNITED STATES PATENT AND TRADEMARK OFFICE

22 SEP 2009

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Anne McGovern Burkhart
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In re Application of	:	
DONALD A. ELY, JR.	:	
PCT No.: PCT/US08/06055	:	DECISION UNDER
Int. Filing Date: 13 May 2008	:	37 CFR 1.181
Priority Date: 13 May 2007	:	
Agent's File Reference: None	:	
For: MULTI-USE TALL BUILDING	:	
STRUCTURE	:	

Applicant's 03 August 2009 communication is being treated as a petition under 37 CFR 1.181 requesting that the copies of drawing sheets nos. 1/15-15/15 filed with the present petition be accepted in lieu of the originals filed on 13 May 2008. No petition fee is required. The petition is **GRANTED** as follows:

BACKGROUND

On 13 May 2008, applicant filed international application PCT/US08/06055, which claimed priority to a U.S. application filed 13 May 2007.

On 09 December 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 applicant that drawing figures nos. 1-15 appear to be missing.

On 03 August 2009, applicant filed the present petition forwarding, inter alia, a copy of drawing sheets nos. 1/15-15/15 (drawing figures nos. 1-15) and a copy of the return receipt postcard indicating receipt of drawing sheets nos. 1/15-15/15 with the original application papers filed on 13 May 2008.

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 drawing sheets nos. 1/15-15/15 filed with the present petition were filed with the original application papers on 13 May 2008. The copy of the return receipt postcard itemizes, inter alia, "drawings - 15 figs". Accordingly, the copies of drawing sheets nos. 1/15-15/15 (drawing figures nos. 1-15) filed with the present petition may properly be **ACCEPTED** as having been filed on **13 May 2008.**

Applicant is hereby notified that U.S. customer number practice does not apply to PCT applications. Therefore, the correspondence address for the present international application has not been changed.

CONCLUSION

Applicant's 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. 1/15-15/15 filed with the present petition as having been filed on 13 May 2008 and to forward copies of drawing sheets nos. 1/15-15/15 to the International Bureau.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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

20 FEB 2009

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Charles ROMANO
THOMPSON COBURN LLP
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St. Louis, Missouri 63101

In re Application of	:	
MONSANTO TECHNOLOGY LLC	:	
Application No.: PCT/US2008/006321	:	
Int. Filing Date: 16 May 2008	:	DECISION
Priority Date: 17 May 2007	:	
Attorney's Docket No.: 46-21(54824)	:	
For: CORN POLYMORPHISMS AND METHODS OF GENOTYPING	:	

This is in response to applicant's "Resubmission of Originally Filed Tables and/or Petition to Accord Original Filing Date" filed 17 November 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

On 16 May 2008, 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 17 November 2008, applicant filed the present petition.

DISCUSSION

Subsequent to the filing of the present petition, further investigation resulted in confirmation that the complete sequence listing related tables, Table 1.txt and Table 3.txt, were received by the RO/US on 16 May 2008.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED as moot.

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

Susan C. Wolski
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Office of Patent Cooperation Treaty
Legal Administration

Bryan Lin
PCT Legal Examiner
PCT Legal Affairs
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UNITED STATES PATENT AND TRADEMARK OFFICE

27 AUG 2008

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Scott R. Weide
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7251 West Lake Mead Blvd. Suite 530
Las Vegas, Nevada 89128

In re Application of :
COLE INDUSTRIES, INC. :
PCT No.: PCT/US08/06552 : DECISION ON PETITION
Int. Filing Date: 21 May 2008 : UNDER 37 CFR 1.10
Priority Date: 22 May 2007 :
Attorney Docket No.: COLEI.0071P :
For: CONFIGURABLE GAMING MACHINE PERMITTING MULTIPLE APPEARANCES AND FACILITATING COMPONENT ACCESSIBILITY :

This decision is in response to applicant's "Request for Corrected International Filing Date" filed 11 August 2008 requesting correction of the international filing date of the above-identified application to 21 May 2008. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 22 May 2008 to the above-identified international application.

On 11 August 2008, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EQ656411913US. 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. Further, the label has a USPS postal (barrel) stamp which is illegible.

DISCUSSION

Petitioner has not submitted a legible 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 21 May 2008. 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.

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 USPS payment receipt for this "Express Mail" envelope; this receipt is dated 21 May 2008. In addition, the USPS tracking database indicates that the USPS accepted this "Express Mail" envelope on 21 May 2008. 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 May 2008. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 21 May 2008 is **GRANTED**.

The "Notification Of International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 18 June 2008, which identified the international filing date as 22 May 2008, is hereby **VACATED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 21 May 2008; (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 May 2008; 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

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 08/06552

International Filing Date 21 MAY 2008

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)* COLEI.0071P

Box No. I TITLE OF INVENTION

CONFIGURABLE GAMING MACHINE PERMITTING MULTIPLE APPEARANCES AND FACILITATING COMPONENT ACCESSIBILITY

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.)*

Cole Industries, Inc.
P.O. Box 364149
North Las Vegas, NV 89036

Telephone No.
(702) 633-4270

Facsimile No.
(702) 633-5088

Applicant's registration No. with the Office

State *(that is, country)* of nationality:
US

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

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

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17 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

DANIEL R. BROWNSTONE
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA CALIFORNIA 94041

In re Application of:
NEXTDB.NET
PCT Application No.: PCT/US2008/007344
International Filing Date: 11 June 2008
Priority Date: 11 June 2007
Atty Docket No.: 26815-01000 PCT
For: SECURE HOSTED DATABASES

DECISION ON PETITION UNDER 37 CFR 1.10(c)

This decision is issued in response to the "Request To Accord Correct Filing Date" filed 26 September 2008, 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 EM056650925US, and listed the date of deposit as 11 June 2008.

On 05 August 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 12 June 2008 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 26 September 2008, applicant filed the petition considered herein. The petition asserts that the proper international filing date is 11 June 2008, a date within twelve months of the 11 June 2007 filing date of the priority application. The submission includes, among other materials, a copy of the customer receipt for "Express Mail" label number EM056650925US. This receipt bears a "date-in" of "6/11."

DISCUSSION

Applicant asserts that the proper international filing date is 11 June 2008, 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 "6/11." In addition, the USPS online tracking data for this "Express Mail" label number confirms that the envelope was accepted by the USPS on 11 June 2008.

Based on applicant's statements, the Transmittal Letter included with the original application papers (which listed the "Express Mail" label number), the "date-in" on the "Express Mail" customer receipt, and the USPS tracking data, it is concluded that the present application was deposited as "Express Mail" with the USPS on 11 June 2008. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 11 June 2008.

CONCLUSION

The petition for correction of the international filing date is **GRANTED**. The international filing date is corrected to **11 June 2008**.

The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 05 August 2008, which identified 12 June 2008 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 05 August 2008, which indicated that the 11 June 2007 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 **11 June 2008** is issued herewith.

Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

Richard M. Ross
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Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau of WIPO

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 08/07344

International Filing Date 11 JUN 2008

PCT INT'L APPLICATION RO/US

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 26815-01000.PCT

Box No. I TITLE OF INVENTION

SECURE HOSTED DATABASES

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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US

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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

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UNITED STATES PATENT AND TRADEMARK OFFICE

10 SEP 2008

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

JONATHAN O. OWENS
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA CALIFORNIA 94086

In re Application of:
AUBURN UNIVERSITY
PCT No.: PCT/US2008/07484
International Filing Date: 11 June 2008
Priority Date Claimed: 15 June 2008
Atty Docket No.: AUB-08201WO
For: FLUID STORAGE CONTAINERS WITH BAFFLES

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to the "Request To Correct international Filing Date" filed 23 July 2008, treated herein as a petition under 37 CFR 1.181 to correct the international filing date from 16 June 2008 to 11 June 2008. 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 11 June 2008 as the date of deposit.

On 07 July 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 16 June 2008 as the international filing date.

On 23 July 2008, applicant filed the "Request To Correct international Filing Date" considered as a petition herein. The petition asserts that the proper international filing date is 11 June 2008. The submission includes, among other materials, a copy of a return postcard that itemizes the application materials filed herein and bears a USPTO receipt stamp dated 11 June 2008.

DISCUSSION

Based on applicant's statements in the present petition, the return postcard that itemizes the international application materials and bears a USPTO receipt stamp dated 11 June 2008, and USPTO records confirming that the fees herein were received on 11 June 2008, it is concluded that the international application materials were filed on 11 June 2008. The international filing date is therefore appropriately corrected to 11 June 2008, as requested by applicant in the present petition.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**. The international filing date is corrected to **11 June 2008.**

The "Notification Of The International Application Number And Of The International Filing Date" mailed 07 July 2008, which identified 16 June 2008 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 **11 June 2008** 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 WIPO

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For Receiving Office use only

International Appln. No. PCT/US 08/07484

International Filing Date 11 JUN 2008

Name of receiving Office and "PCT International Application" RO/US

Applicant's or agent's file reference AUB-08201WO

Box No. I TITLE OF INVENTION
FLUID STORAGE CONTAINERS WITH BAFFLES

Box No. II APPLICANT

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_ This person is also inventor.

Telephone No. (334) 844-7970

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Teleprinter No.

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State (*i.e., country*) of residence: US

This person is applicant for the purposes of: _ all designated States | X 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 APPLICANTS AND/OR (FURTHER INVENTORS)

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US

This person is:

_ applicant only

X applicant and inventor

_ inventor only (*if this check-box is marked, do not fill in below*)

State (*i.e., country*) of nationality: US

State (*i.e., country*) of residence: US

This person is applicant for the purposes of: _ all designated States | X 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: X agent | __ common representative

Name and address

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Facsimile No. 408/530-9797

Teleprinter No.

Applicant's registration No. with the Office 37,902

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25 SEP 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAURA A. CORUZZI
JONES DAY
222 EAST 41ST STREET
NEW YORK NY NEW YORK 10017-6702

In re Application of: MARINE POLYMER TECHNOLOGIES, INC.	:	DECISION ON PETITION
PCT No.: PCT/US2008/008084	:	(37 CFR 1.181)
International Filing Date: 27 June 2008	:	
Priority Date Claimed: 27 June 2007	:	
Atty Docket No.: 7867-070-228	:	
For: COMPLEXES OF IL-15 AND IL-15RALPHA AND USES THEREOF	:	

This decision is issued in response to the "Letter Objecting To Certain Corrections Made Ex Officio" filed 11 September 2008, treated herein as a petition under 37 CFR 1.181 to confirm the filing of a complete 119 page description on the international filing date, 27 June 2008. 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 119 pages of description.

On 29 July 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 27 June 2007 as the international filing date, as well as a "Notification Regarding Certain Corrections Made Ex Officio" (Form PCT/RO/146) indicating that the Request had been corrected to indicate that the international application included only 118 pages of description.

On 11 September 2008, applicant filed the "Letter Objecting To Certain Corrections Made Ex Officio" treated herein as a petition under 37 CFR 1.181. The petition asserts that the original description filed 27 June 2008 included 119 pages, and that the record should be corrected accordingly. The submission includes a copy of the 119-page description purportedly filed on 27 June 2008 and a copy of a return postcard that itemizes the application materials filed herein (including a 119-page description) and bears a USPTO receipt stamp dated 27 June 2008.

DISCUSSION

A review of the 118-page description contained in the application file reveals that page number 101 is missing. Based on applicant's statements in the present petition and the return

postcard that itemizes the international application materials (including a 119-page description) and bears a USPTO receipt stamp dated 27 June 2008, it is concluded that the international application materials filed on 27 June 2008 contained a complete 119-page description, including page number 101.

Page number 101 of the description, included in the copy of the 119-page description accompanying the present petition but missing from the copy of the description present in the application file, will be treated as having been included in the original international application materials filed on 27 June 2008.

CONCLUSION

Applicant's petition is **GRANTED**.

Page number 101 of the description, included in the copy of the 119-page description accompanying the present petition but missing from the copy of the description present in the application file, will be treated as having been included in the original description filed 27 June 2008.

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

This application is being referred 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
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cc: International Bureau of WIPO

21 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
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TIMOTHY W. LOHSE
DLA PIPER US LLP
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In re Application of TEENAY WIRELESS, INC.	:	
PCT Application No.: PCT/US2008/009118	:	
Int. Filing Date: 25 July 2008	:	DECISION
Priority Date Claimed: 25 July 2007	:	
Attorney Docket No.: TN995100	:	
For: A MULTI-TIER BACKHAUL NETWORK SYSTEM . . .	:	

This is in response to applicant's correspondence filed 15 October 2008, which is being treated as a petition under 37 CFR 1.10(c). No petition fee is due.

BACKGROUND

On 25 July 2008, 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 July 2008.

On 23 April 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 15 October 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 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 25 July 2008.

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.

The Invitation to Correct Priority Claim (Form PCT/RO/110) 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)

05 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS FITTING
THE SCRIPPS RESEARCH INSTITUTE
10550 NORTH TORREY PINES ROAD, TPC-8
LA JOLLA, CA 92037

In re Application of	:	
THE SCRIPPS RESEARCH INSTITUTE	:	
PCT No.: PCT/US08/09417	:	DECISION ON PETITION
Int. Filing Date: 05 August 2008	:	
Priority Date: 08 August 2007	:	UNDER 37 CFR 1.10(c)
Attorney Docket No.: 1099.1 PC	:	
For: UPP AMPHIPHILIC HELIX MIMETICS	:	

This decision is in response to applicant's "Request For Correction of International Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 22 September 2008. The paper is being treated as a petition under 37 CFR 1.10(c) to accord an international filing date of 05 August 2008. 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 08 August 2007.

The United States Receiving Office (US/RO) accorded the application an international filing date of 06 August 2008. See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 27 August 2008.

On 22 September 2008, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 05 August 2008 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 06 August 2008.

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 27 August 2008 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 August 2008 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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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/US2008/009417

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 08/09417

International Filing Date 05 AUG 2008

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 1099.1PC

Box No. I TITLE OF INVENTION

UPP AMPHIPHILIC ALPHA-HELIX MIMETICS

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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Applicant's registration No. with the Office

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. *(See also the Notes to Boxes Nos. II and III.)*

E-mail address

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

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858-784-9399

Agent's registration No. with the Office

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. *(See also the Notes to Boxes Nos. II and III.)*

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29 MAY 2009

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

JOSEPH G. NAUMAN
696 RENOLDA WOODS CT.
DAYTON OH OHIO 45429-3415

In re Application of	:	
FRASER, James D.	:	
PCT No.: PCT/US2008/009590	:	DECISION
Int. Filing Date: 11 August 2008	:	
Priority Date: 06 August 2007	:	ON PETITION UNDER
Docket No.: HUMIX PCT	:	
For: PROCESS AND APPARATUS FOR CREATING ULTRA-THIN STONE VENEER FOR EXTERIOR OR INTERIOR CLADDING OR DECOR	:	37 CFR 1.181

This decision is in response to applicant's Communication, filed in the United States Patent and Trademark Office on 06 December 2008. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 07 August 2008, applicant filed claims for the above international application, via Express Mail. As an international application was not yet on file, the papers were placed in application 60/963,605, an application with the same attorney docket number as listed on the papers.

On 11 August 2008, applicant filed a transmittal letter to the United States Receiving Office, a Request (Form PCT/RO/101), a description, and drawings. The papers were assigned international application no. PCT/US2008/009590.

On 03 September 2008, applicant filed a transmittal letter, a replacement Form PCT/RO/101 (Annex) and fees.

On 05 September 2008, the Office mailed Communication In Cases For Which No Other Form Is Applicable (Form PCT/RO/132) noting several inconsistencies in the indication of the ISA.

On 18 September 2008, applicant again filed a Communication with the Office and filed a second corrected copy of the Fee Calculation Sheet (PCT/RO/101 (Annex)) .

On 07 October 2008, the Office mailed Invitation to Correct the Purported International Application (Form PCT/RO/103), indicating that the purported application was not entitled to an international filing date for lack of something that on its face appears to be a claim or claims.

On 06 December 2008, applicant filed this petition to correct the international filing date.

On 19 May 2009, the Office mailed Notification of the International Application Number and of the International Filing Date, indicating that the application had an international filing date of 06 December 2008.

DISCUSSION

As claims for this international application were located in the priority application, the Office was in receipt of a international application entitled to a filing date on 11 August 2008. The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed 19 May 2009 indicating that the application had an international filing date of 06 December 2008 and the Invitation to Correct Purported International Application (Form PCT/RO/103) mailed 07 October 2008, issued in error and are hereby vacated.

Applicant argues that papers mailed at just before midnight on Wednesday, 06 August 2008, would be received before 11 August 2008 at the Office. The evidence of their date of receipt is the date with which they were stamped. If applicants sought to lock in a particular filing date, applicant could have availed himself of Express Mail or the EFS-Web filing system. Applicant did use Express Mail to supply the Office with claims that were omitted from the original package.

As to applicant's objection to the filing date assigned to provisional application 60/963,605, the proper method for correction of a filing date accorded based on a filing under Express Mail is a petition under 37 CFR 1.10. Applicant has not furnished the Express Mail label and fulfilled the requirements. However, it is noted that USPS Express Mail records indicate the package identified by EQ75 2648 585U S was deposited on 06 August 2007 at 11:39 am and arrived at the Office on 07 August 2007 at 9:23am.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.181 to correct the international filing date is **GRANTED** in part and **DISMISSED** in part.

The Invitation to Correct the Purported International Application (Form PCT/RO/103) mailed 07 October 2008 is **VACATED**.

The Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105), mailed 19 May 2009 is **VACATED**.

The application is being returned to the RO/US 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

16 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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THERAQUEST BIOSCIENCES, INC.
146 MEDINAH DRIVE
BLUE BELL, PA 19422-3212

In re Application of :
THERAQUEST BIOSCIENCES, INC. :
PCT No.: PCT/US08/09657 : DECISION ON PETITION
Int. Filing Date: 11 August 2008 :
Priority Date: 09 August 2007 : UNDER 37 CFR 1.10(c)
Attorney Docket No.: 8.9.8.CYP2ACOL :
For: ORAL PHARMACEUTICAL COMPOSITIONS :
OF XENOBIOTICS :

This decision is in response to applicant's petition under 37 CFR 1.10(c) filed in the United States Patent and Trademark Office (USPTO) on 18 September 2008 to accord an international filing date of 11 August 2008. 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 09 August 2007.

The United States Receiving Office (US/RO) accorded the application an international filing date of 13 August 2008. 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 05 September 2008.

On 18 September 2008, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 11 August 2008 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 13 August 2008.

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 "August 11, 2008, 9:34 pm, Philadelphia, PA 19104." Therefore, it is proper to grant applicant's petition at this time.

It is noted that 09 August 2008 was a Saturday. Therefore, pursuant to PCT Rule 80.5, the filing of the international application on Monday, August 11, 2008 is considered timely as to the priority claim of 09 August 2007.

CONCLUSION

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

The Form PCT/RO/105 and Form PCT/RO/110 mailed 05 September 2008 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 11 August 2008 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

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

05 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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VICTOR K. LEE
C/O CELERA CORPORATION
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ALAMEDA, CA 94502

In re Application of	:	
CELERA CORPORATION	:	DECISION ON PETITION
PCT No.: PCT/US08/10439	:	
Int. Filing Date: 05 September 2008	:	UNDER 37 CFR 1.182
Priority Date: 05 September 2007	:	
Attorney's Docket No.: CD000019PCT	:	
For: GENETIC POLYMORPHISMS ASSOCIATED WITH RHEUMATOID ARTHRITIS, METHODS OF DETECTION AND USES THEREOF	:	

This is in response to applicant's "Petition to Include Sequence Listing And Tables Under PCT §1.182" filed 30 December 2008. The petition is being considered under 37 CFR 1.182. Applicant has authorized the charging of the $400.00 petition fee to deposit account number 50-2781.

BACKGROUND

On 05 September 2008, 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.

DISCUSSION

A review of the application file reveals that the 05 September 2008 submission included a sequence listing in text format. The Request (Form PCT/RO/101) indicated that zero (0) pages of sequence listing were being submitted as part of the international application and that the sequence listing was being submitted for the purposes of international search only and not as part of the international application.

The petition states that applicant the boxes of the Form PCT/RO/101 indicating that a sequence listing and tables related thereto were included were inadvertently left unchecked. Applicant's explanation for the erroneously completed Request (Form PCT/RO/101) is accepted. A review of the application file finds that the subject sequence listing and tables were provided on the international filing date and accepted by the RO/US. It is therefore proper to grant applicant's petition at this time.

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, including forwarding a copy of this decision to the International Bureau (IB) and the charging of any additional fees as a result of the sequence listing and tables being considered as a part of the international application.

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2 0 APR 2009
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Hsi, Jeffrey D.
EDWARDS ANGELL PALMER & DODGE LLP
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Boston, Massachusetts 02205

In re Application of:	:	
UNIVERSITY OF FLORIDA RESEARCH FOUNDATION et al.	:	DECISION
PCT Application No.: PCT/US2008/010729	:	
Int. Filing Date: 11 September 2008	:	UNDER
Priority Date: 11 September 2007	:	
Atty Docket No.: 68901WO (49163)	:	
For: COMPOSITION AND METHODS FOR THE TREATMENT OF NEOPLASIA	:	37 CFR § 1.10 (c)
	:	

This decision is in response to applicants' "RESPONSE TO INVITATION TO CORRECT PRIORITY CLAIM IN THE INTERNATIONAL APPLICATION" filed 09 January 2009, 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 02 October 2008, the present application was accorded an international filing date of 15 September 2008 by the United States Receiving Office (RO/US).

On 09 January 2009, applicants filed the present petition requesting the international filing date be corrected to 11 September 2008. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 755117475US.

DISCUSSION

Applicants request that the IFD in the above-captioned international application be corrected to 11 September 2008.

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 11 September 2008. Accordingly, pursuant to 37 CFR § 1.10(c), the international filing date is appropriately corrected 11 September 2008.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 11 September 2008 is **GRANTED**. The application has a proper priority claim with a filing date of 11 September 2007.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 11 September 2008 will be mailed with this decision. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 02 October 2008 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
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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)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
AS INTERNATIONAL SEARCHING AUTHORITY

International Application No.	:	PCT/US2008/010756
International Filing Date	:	16 September 2008 (16.09.2008)
Earliest Priority Date	:	18 September 2007 (18.09.2007)
Applicant(s)	:	AMERICAN TYPE CULTURE COLLECTION (ATCC)
Title	:	COMPOSITIONS AND METHODS FOR DIAGNOSIS AND TREATMENT OF TYPE 2 DIABETES

Authorized Officer : **Lee W. Young**
Attn: ISA/US
Commissioner for Patents
Mail Stop PCT
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Transmitted herewith for filing in the above-referenced international application in response to the Invitation to Pay Additional Fees, and, Where Applicable, Protest Fee mailed to Applicants on December 15, 2008 is the Response and Protest to Invitation to Pay Additional Fees.

If the enclosed documents are considered incomplete, the Authorized Officer is respectfully requested to contact the undersigned at (212) 692-6296, New York, New York, USA.

Respectfully submitted,

Michelle A. Iwamoto

Ivor R. Elrifi, Reg. No. 39,529
Michelle A. Iwamoto, Reg. No. 55,296
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Docket No.: 29957-501002WO
Date: 15 January 2009 (15.01.2009)
Express Mail Label No. EV 334320347 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
AS INTERNATIONAL SEARCHING AUTHORITY

International Application No.	:	PCT/US2008/010756
International Filing Date	:	16 September 2008 (16.09.2008)
Earliest Priority Date	:	18 September 2007 (18.09.2007)
Applicant(s)	:	AMERICAN TYPE CULTURE COLLECTION (ATCC)
Title	:	COMPOSITIONS AND METHODS FOR DIAGNOSIS AND TREATMENT OF TYPE 2 DIABETES

Authorized Officer : **Lee W. Young**
Attn: ISA/US
Commissioner for Patents
Mail Stop PCT
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE AND PROTEST TO INVITATION TO PAY ADDITIONAL FEES

In response to the Invitation to Pay Additional Fees (herein the "Invitation") mailed on December 15, 2008 in relation to the above-referenced international application, Applicants respectfully decline to pay additional fees and protest under PCT Administrative Instruction Section 502 the finding by the International Searching Authority that there are 548 claimed inventions, and the amount of additional fees calculated at $984,600.

Applicants respectfully contend that the special technical feature of the methods (as claimed in Claims 1-14) and antibodies (Claims 17-19) defined by the present invention are the 548 biomarkers which in combination have been found by the present inventors to be implicated in type 2 Diabetes Mellitus. Some or all of the 548 biomarkers are used in practice of the invention, which relates to methods of diagnosing, monitoring the progression of, or treating a subject diagnosed with or identified as suffering from type 2 Diabetes, one or more complications related to type 2 Diabetes, or a pre-diabetic condition in a subject. The 548 biomarkers disclosed in the application, as a whole, confer the special technical feature providing a contribution over the prior art. In particular, the claimed methods relate to use of all 548 biomarkers, or subsets of the 548 biomarkers, together as a way to diagnose and/or treat type 2 Diabetes Mellitus. So characterized, Applicants believe that the methods of the invention, including all 548 biomarkers identified by the present inventors, complies with PCT Rule 13.1 by relating to a group of inventions so linked as to form a single general inventive concept and should be examined in a single application.

However, in the interest of expediting search and examination of the present claims, Applicants elect Group I for further search and examination referenced at page 3 of the Invitation, wherein Group I corresponds to Claims 1-14 and 17-19 wherein the T2DBMARKER is Serpina 3M. Serpina 3M can be measured alone or in combination with one or more additional T2DBMARKERS. The fact that additional markers may be used in addition to Serpina 3M does not violate unity of invention, since Serpina 3M is always measured. Applicants intend to file amendments to the claims under PCT Article 19 to better define the claimed invention.

Applicants respectfully request reconsideration of the finding that there are 548 separate claimed inventions and contend that the claims as originally filed are in compliance with PCT Rule 13.1. Applicants also request that the text of this protest and the decision thereon is sent to the designated Offices together with the international search report.

Respectfully submitted,

Michelle A Iwamoto

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Docket No.: 29957-501002WO
Date: 15 January 2009 (15.01.2009)
Express Mail Label No. EV 334320347 US

UNITED STATES PATENT AND TRADEMARK OFFICE

13 MAR 2009

Commissioner for Patents
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DEAN E. MCCONNELL
KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN INDIANA 46204-2079

In re Application of:	:	
CUMMINS FILTRATION IP, INC.	:	DECISION ON PETITION UNDER
PCT No.: PCT/US2008/11074	:	37 CFR 1.181
Int'l Filing Date: 23 October 2008	:	
Claimed Priority Date: 24 September 2007	:	
Attorney's Docket No.: FLTW-185	:	
For: MODULAR FUEL FILTER ASSEMBLY	:	

This decision is issued in response to applicant's "Petition To Correct International Filing Date" filed 13 February 2009, treated herein under 37 CFR 1.181. The petition seeks to confirm the inclusion of Figures 9B through 11C in the application materials filed 24 September 2008. No petition fee is required.

BACKGROUND

On 24 September 2008, applicant filed materials to initiate the present international application, including a Request (Form PCT/RO/101), 26 pages of description, 10 pages of claims, 1 page of abstract, 10 sheets of drawings, and a Form PTO-1382 Transmittal Letter. These materials were assigned application number PCT/US2008/11074. The application as filed did not include a priority claim.

On 15 October 2008, the United States Receiving Office (RO/US) mailed a number of forms, including: (1) a "Notification Of The International Application Filing Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 24 September 2008; (2) an "Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing" (Form PCT/RO/107) indicating that "Figures 9B thru 11C" were not included with the application materials filed 24 September 2008; and (3) a "Notification Regarding Certain Corrections Made Ex Officio" (Form PCT/RO/146) indicating that page 7 of the PCT Request had been corrected to indicate that 10 pages of drawings had been filed, as opposed to the 19 pages listed on the Request.[1]

On 23 September 2008, applicant filed the following: (1) a "Request For Addition Of Priority Claim" under PCT Rule 26bis.1 seeking to add priority claims directed to U.S provisional application 60/994,993, filed 24 September 2007, and U.S. non-provisional

[1] The Form PCT/RO/146 also indicated that the number of pages in the Request itself had been corrected to 7 pages, as opposed to the 8 pages listed on the Request.

application 12/284,685, filed 24 September 2008; (2) copies of Figures 9B through 11C (page numbers 11/19 through 19/19 of the drawings); (3) a "Response To Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing" requesting that Figures 9B through 11C be incorporated by reference into the present application from U.S. application 12/284,685;[2] and (4) payment of required filing fees.

On 30 December 2008, the RO/US mailed a number of forms, including: (1) a "Notification Of Decision Of Confirmation Of Incorporation By Reference Of Element Or Part" (Form PCT/RO/114) indicating that applicant's request to incorporate by reference Figure's 9B to 11C was dismissed because the application being relied upon was not incorporated by reference upon filing of the international application; (2) a "Notification Concerning Later Submitted Parts Of An International Application" (Form PCT/RO/126) indicating that the copies of Figures 9B through 11C filed 23 October 2008 would be entered into the international application and that the international filing date would, as a result, be corrected to 23 October 2008; and (3) a revised "Notification Of The International Application Filing Number And Of The International Filing Date" (form PCT/RO/105) setting forth the revised international filing date, 23 October 2008.

The "Notification Concerning Later Submitted Parts Of An International Application" (Form PCT/RO/126) mailed 30 December 2008 stated that "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))." Applicant did not file a notice requesting that the missing part (i.e., Figures 9B though 11C) be disregarded within one month of the mail date of the Form PCT/RO/126. Accordingly, the figures remain a part of the international application, and the international filing date remains 23 October 2008.

On 13 February 2009, applicant filed the "Petition To Correct International Filing Date" considered herein under 37 CFR 1.181. The petition argues that the international filing date should be corrected to 24 September 2008 because all 19 sheets of drawings, including Figures 9B through 11C, were included with the application materials filed 24 September 2008.

DISCUSSION

A review of the application file confirms that the application materials filed on 24 September 2008 include only ten sheets of drawings; these materials do not include Figures 9B through 11C (i.e., pages 11/19 through 19/19 of the drawings). The application file also contains additional evidence supporting the conclusion that the application as filed included only ten sheets of drawings. Specifically, an internal checklist indicates that only 10 pages of drawings were received. In addition, a copy of applicant's return postcard retained in the application file shows that applicant's indication of 19 sheets of drawings was annotated by USPTO personnel to indicate that only 10 sheets of drawings were received.

[2] This submission also asserts that all the figures, including figures 9B through 11C, were included in the application as filed.

The present petition asserts that the missing drawing sheets were included in the application materials filed 24 September 2008. However, applicant has not provided convincing evidence to confirm this assertion (i.e., an un-annotated return postcard itemizing the 19 sheets of drawings and bearing a USPTO receipt stamp dated 24 September 2008). Rather, applicant relies on their file copy of the application (which includes all 19 sheets of drawings) and a statement from Dean E. McConnell, the attorney who prepared the application for filing, asserting that all these pages were included by him in the application filed 24 September 2008. However, this statement, executed long after the filing of this particular application, is not sufficient to confirm that the missing sheets of drawings were not inadvertently left out of the application materials filed herein. While the statement indicates that counsel intended to submit all 19 sheets of drawings included in applicant's file copy (and that he believes that he did so), this unsupported assertion does not provide a showing sufficient to refute the objective evidence to the contrary contained in the application file.

Based on the above, applicant has not provided an acceptable showing that the international application materials filed 24 September 2008 included Figures 9B through 11C. Applicant's petition to correct the international filing date to 24 September 2008, a date prior to the submission of these figures, is therefore appropriately dismissed.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice. Applicant has not provided an acceptable showing that Figures 9B through 11C (pages 11/19 through 19/19 of the drawings) were included with the original application materials filed 24 September 2008.

As indicated in the previous communications herein, pursuant to applicant's 23 October 2008 submission, the copies of Figures 9B through 11C filed 23 October 2008 have been incorporated into the international application, and the international filing date has been corrected to 23 October 2008.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. Any such submission must include an acceptable showing confirming that the missing sheets of drawings were included with the materials filed 24 September 2008.

This application is being returned to the RO/US for further processing in accordance with this decision. The international filing date remains 23 October 2008.

Richard M. Ross
Attorney Advisor
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UNITED STATES PATENT AND TRADEMARK OFFICE

23 DEC 2009

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of:
CUMMINS FILTRATION IP, INC.
PCT No.: PCT/US2008/11074
Int'l Filing Date: 23 October 2008
Claimed Priority Date: 24 September 2007
Attorney's Docket No.: FLTW-185
For: MODULAR FUEL FILTER ASSEMBLY

DECISION ON RENEWED PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Request For Reconsideration On Decision On Petition Under 37 CFR 1.181" " filed 17 April 2009, treated herein as a renewed petition. The petition again seeks to confirm the inclusion of Figures 9B through 11C in the application materials filed 24 September 2008. No petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed 13 March 2009. The decision dismissed without prejudice applicant's petition under 37 CFR 1.181. Specifically, the decision indicated that applicant had not provided acceptable showing that the international application materials filed 24 September 2008 included Figures 9B through 11C.

On 17 April 2009, applicant filed the renewed petition considered herein.

DISCUSSION

As discussed in the previous decision, the materials in the present application file indicate that the application materials filed by applicants on 24 September 2008 included only 10 sheets of drawings, as opposed to the 19 sheets of drawings which applicant apparently intended to include in the application.[1] The evidence supporting this conclusion is as follows: (1) the drawings document filed 24 September 2008 contained in the application file include only ten sheets of drawings; (2) the internal checklist that, pursuant to Office procedure, is generated at the time the envelope containing the application is opened, indicates that only 10 pages of drawings were received; and (3) applicant's indication of 19 sheets of drawings on the return postcard submitted with the application was annotated by USPTO personnel to indicate that only

[1] Specifically, the materials filed 24 September 2008 did not include Figures 9B through 11C, that is, pages 11/19 through 19/19 of the drawings

10 sheets of drawings were included. Pursuant to standard Office procedure, such annotations are made at the time the envelope containing the correspondence is opened, where the number of pages submitted does not correspond with the number of pages listed on the return postcard.

In the present renewed petition, applicant again asserts that the application materials filed 24 September 2008 included all 19 sheets of drawings, as opposed to the 10 sheets of drawings present in the application file. Initially, applicant asserts that the "fact that the Office marked out 19 on the post card and placed 10 on the post card provides very little, if any, evidence that the Office did not receive 19 drawing sheets." However, as set forth in MPEP section 503:

> 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.

Because the contents of the filed envelope are immediately compared against the items listed on the postcard, and any discrepancies annotated thereon, the annotated return postcard is the best evidence as to what is actually present in the envelope received by the USPTO. It is therefore appropriate that the USPTO treats 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." Based on the above, applicant's assertion that the annotated postcard has "very little, if any" probative value as to what was present in the filed envelope is unconvincing.

As in the previous petition, applicant relies on a series of facts that, while indicating applicants' intent to submit 19 sheets of drawings with the application, are not conclusive evidence that all 19 sheets of drawings were in fact included in the envelope filed in the USPTO. For example, applicant asserts that it "belies logic that Applicants' counsel would file all 19 drawing sheets in the corresponding U.S. Application and not in the international application." However, this assertion ignores the possibility that applicants could have unintentionally failed to include all the intended sheets with the international application as filed, an error that is often seen in applications filed in the USPTO. Similarly, the fact that the transmittal letter, Request and Fee Calculation Sheet filed by applicants indicated that 19 drawing sheets were included in the application (or that the specification refers to additional drawings) are also evidence only of an intent to file 19 sheets of drawings. These indications are not conclusive evidence that all 19 sheets of drawings were in fact included in the envelope filed in the USPTO, and they do not provide a showing sufficient to refute the objective evidence to the contrary contained in the application file, as discussed above.

Applicant's present petition also relies on the "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) mailed 15 October 2008 by the RO/US as evidence that the filed application contained all 19 sheets of drawings.[2] However, the Form PCT/RO/102 is filled out by USPTO personnel reviewing the electronic documents in the application file, not the

[2] The PCT/RO/102 indicates that the application includes 64 total sheets, a total which corresponds with the inclusion of 19 sheets of drawings.

original paper documents received from applicant (as noted above, the electronic document in the application file contain only 10 sheets of drawings). Thus, while the Form PCT/RO/102 incorrectly lists the number of pages contained in the application, this error does not support the conclusion that all 19 sheets of drawings were actually submitted by applicant because the person who filled out this form only had access to the electronic file containing 10 sheets of drawings, not to any separate paper document that could have been inconsistent with the electronic file.[3]

Based on the above, applicant has not provided an acceptable showing that the international application materials filed 24 September 2008 included Figures 9B through 11C. Applicant's renewed petition to correct the international filing date to 24 September 2008, a date prior to the submission of these figures, is therefore appropriately dismissed.

CONCLUSION

The renewed petition under 37 CFR 1.181 is **DISMISSED** without prejudice. Applicant has not provided an acceptable showing that Figures 9B through 11C (pages 11/19 through 19/19 of the drawings) were included with the original application materials filed 24 September 2008. As indicated in the previous communications herein, pursuant to applicant's 23 October 2008 submission, the copies of Figures 9B through 11C filed 23 October 2008 have been incorporated into the international application, and the international filing date has been corrected to 23 October 2008.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. Any such submission must include an acceptable showing confirming that the missing sheets of drawings were included with the materials filed 24 September 2008.

This application is being returned to the RO/US for further processing in accordance with this decision. The international filing date remains 23 October 2008.

Richard M. Ross
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[3] It is noted that, on the same date the Form PCT/RO/102 was issued, a "Notification Regarding Certain Corrections Made *Ex Officio*" (Form PCT/RO/146) was issued by same person, and the Form PCT/RO/146 specifically corrected the Request to indicate that 54 total sheets, including only 10 sheets of drawings, were received by the RO/US.

UNITED STATES PATENT AND TRADEMARK OFFICE

07 APR 2010

Commissioner for Patents
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MICHAEL D. SCHUMANN
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MINNEAPOLIS MN MINNESOTA 55402

In re Application of:	:	
CUMMINS FILTRATION IP, INC.	:	DECISION ON RENEWED
PCT No.: PCT/US2008/011074	:	PETITION UNDER
Int'l Filing Date: 23 October 2008	:	37 CFR 1.181
Claimed Priority Date: 24 September 2007	:	
Attorney's Docket No.: FLTW-185	:	
For: MODULAR FUEL FILTER ASSEMBLY	:	

This decision is issued in response to applicant's "Amendments Under Article 34" filed 02 February 2010 and the "Communication Under Rule 82ter" filed 15 March 2010, treated herein as renewed petitions to correct the international filing date. No petition fee is required.

BACKGROUND

On 24 September 2008, applicant filed materials to initiate the present international application, including a Request (Form PCT/RO/101), 26 pages of description, 10 pages of claims, 1 page of abstract, 10 sheets of drawings, and a Form PTO-1382 Transmittal Letter. These materials were assigned application number PCT/US2008/11074. The application as filed did not include a priority claim.

On 15 October 2008, the United States Receiving Office (RO/US) mailed a number of forms, including: (1) a "Notification Of The International Application Filing Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 24 September 2008; (2) an "Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing" (Form PCT/RO/107) indicating that "Figures 9B thru 11C" were not included with the application materials filed 24 September 2008; and (3) a "Notification Regarding Certain Corrections Made Ex Officio" (Form PCT/RO/146) indicating that page 7 of the PCT Request had been corrected to indicate that 10 pages of drawings had been filed, as opposed to the 19 pages listed on the Request.[1]

On 23 October 2008, applicant filed the following: (1) a "Request For Addition Of Priority Claim" under PCT Rule 26bis.1 seeking to add priority claims directed to U.S provisional application 60/994,993, filed 24 September 2007, and U.S. non-provisional application 12/284,685, filed 24 September 2008; (2) copies of Figures 9B through 11C (page

[1] The Form PCT/RO/146 also indicated that the number of pages in the Request itself had been corrected to 7 pages, as opposed to the 8 pages listed on the Request.

numbers 11/19 through 19/19 of the drawings); (3) a "Response To Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing" requesting that Figures 9B through 11C be incorporated by reference into the present application from U.S. application 12/284,685;[2] and (4) payment of required filing fees.

On 30 December 2008, the RO/US mailed a number of forms, including: (1) a "Notification Of Decision Of Confirmation Of Incorporation By Reference Of Element Or Part" (Form PCT/RO/114) indicating that applicant's request to incorporate by reference Figure's 9B to 11C was dismissed because the application being relied upon was not incorporated by reference upon filing of the international application; (2) a "Notification Concerning Later Submitted Parts Of An International Application" (Form PCT/RO/126) indicating that the copies of Figures 9B through 11C filed 23 October 2008 would be entered into the international application and that the international filing date would, as a result, be corrected to 23 October 2008; and (3) a revised "Notification Of The International Application Filing Number And Of The International Filing Date" (form PCT/RO/105) setting forth the revised international filing date, 23 October 2008.

On 13 February 2009, applicant filed "Petition To Correct International Filing Date" considered herein under 37 CFR 1.181. The petition argued that the international filing date should be corrected to 24 September 2008 because all 19 sheets of drawings, including Figures 9B through 11C, were included with the application materials filed 24 September 2008.

On 13 March 2009, this Office issued a decision dismissing without prejudice applicant's petition, concluding that applicant had not provided an acceptable showing that all 19 sheets of drawings were included with the application materials filed on 24 September 2008.

On 17 April 2009, applicant filed a renewed petition, again requesting that the international filing date be corrected to 24 September 2008.

On 23 December 2009, this Office issued a decision again dismissing without prejudice applicant's petition.

On 02 February 2010, applicant filed the "Amendment's Under Article 34" discussed herein. The submission requests that Figures 9b-11c be deleted from the application and that the filing date be returned to 24 September 2008. The submission also seeks to amend the drawings and description of the international application under PCT Article 34.

On 15 March 2010, applicant filed the "Communication Under Rule 82ter" considered as a petition herein, again requesting that the international filing date be corrected to 24 September 2008.

[2] This submission also asserts that all the figures, including figures 9B through 11C, were included in the application as filed.

DISCUSSION

1. The International Filing Date Was Appropriately Corrected To 23 October 2008 Pursuant to PCT Rule 20.5

As discussed in detail in the previous decisions, the present application file indicates that the application materials filed to initiate the present application on 24 September 2008 included only 10 sheets of drawings, as opposed to the 19 sheets of drawings which applicant apparently intended to include in the application,[3] and applicant's subsequent petitions have not provided an acceptable showing that all 19 sheets of drawings were in fact included with the 24 September 2008 submission.

Applicant's present petition argues that, because the materials filed 24 September 2008 included a description and claims, the application should be accorded a filing date of 24 September 2008. Petitioner relies on the language in PCT Article 11(1) that states, where a submission satisfies the requirements of Article 11(1), the receiving office "shall" accord an international filing date as of the date of receipt of these elements.

A review of the file confirms that, consistent with PCT Article 11(1), the RO/US originally accorded the present application an international filing date of 24 September 2008 (see the Form PCT/RO/105 mailed 15 October 2008). However, the international filing date was subsequently corrected to 23 October 2008 pursuant to the mechanism set forth in PCT Rule 20.5, which reads as follows (emphasis added):

> **Where, in determining whether the papers purporting to be an international application fulfill the requirements of Article 11(1), the receiving Office finds that a part of the description, claims or drawings is or appears to be missing, including the case where all of the drawings are or appear to be missing but not including the case where an entire element referred to in Article 11(1)(iii)(d) or (e) is or appears to be missing, it shall promptly invite the applicant, at the applicant's option:**
>
> (i) to complete the purported international application by furnishing the missing part; or
>
> (ii) to confirm, in accordance with Rule 20.6(a), that the part was incorporated by reference under Rule 4.18; and to make observations, if any, within the applicable time limit under Rule 20.7. If that time limit expires after the expiration of 12 months from the filing date of any application whose priority is claimed, the receiving Office shall call that circumstance to the attention of the applicant.
>
> (b) Where, following an invitation under paragraph (a) or otherwise, the applicant furnishes to the receiving Office, on or before the date on which all of the requirements of Article 11(1) are fulfilled but within the applicable time limit under Rule 20.7, a missing part referred to in paragraph (a) so as to

[3] Specifically, the materials filed 24 September 2008 did not include Figures 9B through 11C, that is, pages 11/19 through 19/19 of the drawings

complete the international application, that part shall be included in the application and the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).

(c) **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.**

(d) Where, following an invitation under paragraph (a) or otherwise, a part referred to in paragraph (a) is, under Rule 20.6(b), considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).

(e) **Where the international filing date has been corrected under paragraph (c), the applicant may, in a notice submitted to the receiving Office within one month from the date of the notification under paragraph (c), 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 under that paragraph shall be considered not to have been made, and the receiving Office shall proceed as provided for in the Administrative Instructions.**

In the present application, the RO/US determined that part of the drawings (but not an entire element referred to in Article 11(1)(iii)(d) or (e)) were missing. Accordingly, as required by PCT Rule 20.5(a), the RO/US issued the "Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing" (Form PCT/RO/107) indicating that "Figures 9B thru 11C" were not included with the application materials filed 24 September 2008).

On 23 October 2008, applicant filed a response to the Form PCT/RO/107 that included the missing drawings and a request for incorporation by reference of such missing drawings.

On 30 December 2008, the RO/US refused applicant's request for incorporation by reference (see the PCT/RO/114 mailed 30 December 2008) and, pursuant to PCT Rule 20.5(c), notified applicant that the missing drawings had been added to the international application and the international filing date had been corrected to 23 October 2008, the date on which the RO/US received the missing drawings (see the PCT/RO/126 mailed 30 December 2008).

Consistent with PCT Rule 20.5(e), the Form PCT/RO/126 mailed 30 December 2008 specifically stated that "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))." Applicant did not file a notice requesting that the missing part (i.e., Figures 9B though 11C) be disregarded within one month of the mail date of the Form PCT/RO/126. Accordingly, the figures remain a part of the international application, and the international filing date properly remains 23 October 2008.

It is noted that applicant's present submissions seek to have the drawings filed 23 October 2008 removed from the application and the original 24 September 2008 international filing date reinstated; however, having failed to file a notice to this effect during the one-month time period available under PCT Rule 20.5(e), the option of having the drawings disregarded and the original international filing date reinstated under PCT Rule 20.5(e) is no longer available to applicant. Furthermore, petitioner's argument that "an invitation under Article 11(2)(a) was not necessary" in the present case is inapposite. As discussed above, the "Invitation Relating To Certain Parts Of The International Application That Are, Or Appear To Be, Missing" (Form PCT/RO/107) mailed herein was not issued under Article 11(2)(a). Rather, the invitation was issued under, and required by, PCT Rule 20.5(a), quoted above. See also PCT Article 14(2).

In view of the above, applicant has not provided a showing that the 23 October 2008 international filing date accorded to the present application is incorrect due to an error by the RO/US. Accordingly, correction of the international filing date under PCT Rule 82ter is not appropriate. Applicant's request to reinstate the original filing date of 24 September 2008 is not supported by the applicable provisions of the PCT and is therefore appropriately dismissed.

2. The Purported Article 34 Amendments Filed 02 February 2010 Are Not Properly Submitted Herein

On 02 February 2010, applicant filed proposed amendments to the international application under PCT Article 34. Amendment of an international application under PCT Article 34 amendments is only available in Chapter II of the PCT. Applicant here has not filed a Demand for International Preliminary Examination requesting Chapter II processing of the present application, and the time period for filing such a Demand has previously expired. See PCT Rule 54bis.1. Accordingly, the purported Article 34 amendments filed herein have not been considered and will not be entered into the present application.

CONCLUSION

The petition for correction of the international filing date is **DISMISSED** without prejudice. The international filing date for the present application remains 23 October 2008.

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16 MAR 2009

United States Patent and Trademark Office

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WASHINGTON DC 20005-3934

In re Application of	:	
Innurvation, Inc.	:	DECISION
PCT No.: PCT/US2008/011326	:	
Int. Filing Date: 01 October 2008	:	ON
Priority Date: 01 October 2007	:	
Attorney's Docket No.: 2520.009PC00	:	PETITION
For: System And Method For Manufacturing A Swallowable Sensor Device	:	

This is in response to applicants' petition to correct the international filing date, filed on 14 November 2008.

BACKGROUND

Applicants filed this international application with the United States receiving Office.

On 22 October 2008, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) reflecting an international filing date of "30 Sep 2008" was mailed to counsel.

DISCUSSION

Petitioner requests that this international application be accorded an international filing date of 01 October 2008, rather than 30 September 2008 as recorded on Form PCT/RO/105. In support of this position, petitioner has provided a "copy of the date-stamped filing card which reflects the correct filing date." Inspection of the submitted copy of the return postcard receipt reveals that it itemizes the correspondence in question and that it is stamped as received by "OIPE" on 01 October 2008. MPEP 503 explains 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." In view of this policy, and on the basis of the facts currently of record, it would be appropriate to regard the international application as filed on 01 October 2008. Therefore, the Form PCT/RO/105 mailed on 22 October 2008 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

The international filing date of this international application is corrected to **01 October 2008**. A corrected Form PCT/RO/105 has been prepared and will be mailed separately. A copy of the first sheet of the PCT Request (Form PCT/RO/101) showing the correct international filing date is attached hereto.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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enc.: Form PCT/RO/101, first sheet

cc: International Bureau of WIPO

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 08/11326

International Application No.

- 1 OCT 2008

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)* 2520.009PC00

Box No. I TITLE OF INVENTION

SYSTEM AND METHOD FOR MANUFACTURING A SWALLOWABLE SENSOR DEVICE

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.)*

INNURVATION, INC.
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Columbia, Maryland 21046-1169
United States of America

Telephone No.

Facsimile No.

Applicant's registration No. with the Office

☒ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. *(See also the Notes to Boxes Nos. II and III.)*

E-mail address: foreignfiling@skgf.com

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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20 APR 2009

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Boston, MA 02205

In re Application of :
THE JOHNS HOPKINS UNIVERSITY :
PCT No.: PCT/US08/11402 : DECISION ON PETITION
Int. Filing Date: 01 October 2008 : UNDER 37 CFR 1.10
Priority Date: 01 October 2007 :
Attorney Docket No.: 82718WO(71699) :
For: METHODS OF TREATING NEUROLOGICAL AUTOIMMUNE DISORDERS WITH CYCLOPHOSPHAMIDE :

This decision is in response to applicant's "Response to Invitation to Correct Priority Claim" received by the United States Patent and Trademark Office on 14 April 2009. Applicant requests correction of the international filing date of the above-identified application to 01 October 2008. No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 02 October 2008 to the above-identified international application.

On 17 February 2009, the RO/US mailed INVITATION TO CORRECT PRIORITY CLAIM (Form PCT/RO/110) which indicated that the filing date of the priority application fell outside of one year prior to the international filing date.

On 14 April 2009, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EM258208469US. 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 "10-01-08."

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 01 October 2008. Specifically, the "Express Mail" label number ("#EM258208469US") 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 01 October 2008.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 01 October 2008 is **GRANTED**.

The Invitation to Correct Priority Claim (Form PCT/RO/110) mailed 17 February 2009 is hereby VACATED.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 01 October 2008; (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 01 October 2008; 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 08/11402

International Filing Date - 1 OCT 2008

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) 82718WO(71699)(P101 94-4)

Box No. I TITLE OF INVENTION

METHODS OF TREATING NEUROLOGICAL AUTOIMMUNE DISORDERS WITH CYCLOPHOSPHAMIDE

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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UNITED STATES OF AMERICA

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Facsimile No.

Applicant's registration No. with the Office

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. *(See also the Notes to Boxes Nos. II and III.)*

E-mail address

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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E-mail address patent@eapdlaw.com

☐ **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.

**RO/US

03 FEB 2009

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Palo Alto, CA 94303

In re Application of
SONY COMPUTER ENTERTAINMENT AMERICA, INC.
PCT No.: PCT/US2008/011415
Int. Filing Date: 01 October 2008
Priority Date: 05 October 2007
Docket No.: PA4712PCT
For: SEAMLESS HOST MIGRATION BASED ON NAT TYPE

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 14 November 2008. These papers are treated as a petition under 37 CFR 1.10(c).

BACKGROUND

Applicant filed PCT/US2008/011415 using Express Mail service. The papers were deemed as received by the RO/US on 02 October 2008.

On 29 October 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 02 October 2008.

On 14 November 2008, applicant filed the above-captioned petition.

DISCUSSION

Applicant requests that the international filing date in the above-captioned international application be amended to 01 October 2008. 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 petition is promptly filed. The Express Mail label number, EM007150061US, is listed on the transmittal letter accompanying the Request and the "Date of Deposit" is noted as 01 October 2008. Applicant included a copy of the Customer Copy of Express Mail label No. EM007150061US which has a "Date Accepted" of "10 - 1 - 08" and is stamped by the USPS on "OCT - 1 2008." 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 29 October 2008 is hereby **VACATED**.

A corrected Form PCT/RO/105 indicating an international filing date of **01 October 2008** 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

25 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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BO-IN LIN
13445 MANDOLI DRIVE
LOS ALTOS HILLS, CA 94022

In re Application of OLYMPUS CORPORATION	:	
PCT Application No.: PCT/US2008/011418	:	
Int. Filing Date: 02 October 2008	:	DECISION
Priority Date Claimed: 02 October 2007	:	
Attorney Docket No.: SQ-0642	:	
For: PROJECTION APPARATUS COMPRISING SPATIAL LIGHT MODULATOR	:	

This is in response to applicant's "Petition to Correct Filing Date for PCT International Application" filed 30 October 2008.

BACKGROUND

On 02 October 2008, 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 initially accorded an International Filing Date of 03 October 2008.

On 30 October 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 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 02 October 2008.

CONCLUSION

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

The International Filing Date is 02 October 2008.

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 (IB).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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UNITED STATES PATENT AND TRADEMARK OFFICE

0 3 DEC 2008

Commissioner for Patents
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GEORGE W. MOXON II
222 SOUTH MAIN STREET
AKRON OH OHIO 44308

In re Application of:	:	
AKRON POLYMER SYSTEMS	:	DECISION ON PETITION
PCT No: PCT/US2008/011514	:	
International Filing Date: 06 October 2008	:	
Priority Date: 04 October 2007	:	
Atty Docket No.: 113735.4.PCT	:	
For: POLY (ARYLETHERIMIDES) FOR NEGATIVE BIREFRINGENT FILMS FOR LCDS	:	

This decision is issued in response to the "Petition To Recognize Proper Filing Date" filed 10 November 2008, treated herein under 37 CFR 1.10. No petition fee is required.

BACKGROUND

Applicant initiated the present international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The application materials included a transmittal letter bearing a "Certificate Of Mailing Via Express Mail" stating that the application materials were deposited with the USPS as "Express Mail" on 06 October 2008.

On 31 October 2008, 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 06 October 2008.

On 10 November 2008, applicant filed the "Petition To Recognize Proper Filing Date" considered herein. The petition asserts that the international filing date should be corrected to 04 October 2008, two days prior to the filing of the international application.

DISCUSSION

The present international application was filed in the RO/US via "Express Mail." 37 CFR 1.10(a)(1) states the following with respect to such submissions (emphasis added):

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) **will be considered filed with the USPTO on the date of deposit with the USPS.**

The "Certificate Of Mailing Via Express Mail" filed herein identified 06 October 2008 as the date on which the "Express Mail" envelope containing the original application materials was deposited with the USPS. USPS online tracking data for the "Express Mail" label number listed on the "Certificate Of Mailing Via Express Mail" also indicates that the application materials were accepted by the USPS on 06 October 2008. Moreover, in the present petition, applicant confirms that the application was filed on 06 October 2008.

The record contains no evidence to indicate that the "Express Mail" envelope containing the international application was deposited with the USPS at any time prior to 06 October 2008. Accordingly, pursuant to the record herein and 37 CFR 1.10(a)(1), the proper international filing date is 06 October 2008, the date on which the envelope containing the international application was deposited with the USPS as "Express Mail". Applicant's request to have the filing date changed to an earlier date is therefore appropriately dismissed.[1]

It is noted that applicant's present petition refers to PCT Rule 26bis.1(a), but such rule is only applicable to the correction, addition, or removal of a priority claim; it does not apply to correction of the international filing date. Since the present petition does not seek to correct, add, or remove a priority claim, PCT Rule 26bis.1(a) is not applicable here.

CONCLUSION

Applicant's petition is **DISMISSED** without prejudice.

The international filing date remains **06 October 2008**.

This application is being referred to the RO/US for further processing in accordance with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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[1] Applicant should note that Article 4(c)(3) of the Paris Convention states the following regarding situations where the priority period expires on a non-working day: "If the last day of the [twelve-month priority] period is an official holiday, or a day when the Office is not open for the filing of applications in the country where protection is claimed, the period shall be extended until the first following working day." See also PCT Rule 80.5.

25 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANDREW J. WARNER
CELL SIGNALING TECHNOLOGY, INC.
3 TRASK LANE
DANVERS, MA 01923

In re Application of	:	
CELL SIGNALING TECHNOLOGY, INC.	:	
PCT Application No.: PCT/US2008/011968	:	
Int. Filing Date: 20 October 2008	:	DECISION
Priority Date Claimed: 18 October 2007	:	
Attorney Docket No.: CST-265 PCT	:	
For: TRANSLOCATION AND MUTANT ROS KINASE . . .	:	

This is in response to applicant's petition under 37 CFR 1.10(c) filed 08 December 2008.

BACKGROUND

On 20 October 2008, 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 21 October 2008.

On 07 November 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 08 December 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 certificate of mailing 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 an official USPS date stamp of 20 October 2008.

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 29 August 2007 is hereby VACATED.

The Invitation to Correct Priority Claim (Form PCT/RO/110) mailed 29 August 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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PCT Legal Examiner
PCT Legal Office

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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

26 MAY 2009

Commissioner for Patents
United States Patent and Trademark Office
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Andrew J. Warner, Esquire
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In re Application of:	:	
CELL SIGNALING TECHNOLOGY, INC. et al.	:	DECISION
PCT Application No.: PCT/US2008/011969	:	
Int. Filing Date: 20 October 2008	:	UNDER
Priority Date: 19 October 2007	:	
Atty Docket No.:CST-267 PCT	:	
For: CANCER CLASSIFICATION AND METHODS OF USE	:	37 CFR § 1.10 (d)

This decision is in response to applicants' "PETITION TO THE DIRECTOR TO CORRECT FILING DATE" filed 08 December 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 07 November 2008, the present application was accorded an international filing date of 21 October 2008 by the United States Receiving Office (RO/US).

On 08 December 2008, applicants filed the present petition requesting the international filing date be corrected to 20 October 2008. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EH 089406852US.

DISCUSSION

Applicants request that the International Filing Date in the above-captioned international application be corrected to 20 October 2008.

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 was omitted by the USPS, 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 EH089406852US thus satisfying § 1.10(d)(2). With regard to § 1.10(d)(3), petitioner has furnished a declaration by Lisa Pappalardo, who deposited the Express mail package in question with the USPS. This is further confirmed by the stamp seal on the Express Mail label of 20 October 2008 from the USPS and the acceptance of the package on the Track and Confirm of the USPS website as indicated by the declaration.

Based on the above evidence, pursuant to 37 CFR § 1.10(d), the international filing date is appropriately corrected to 20 October 2008.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 20 October 2008 is **GRANTED**. The application has a proper priority claim with a filing date of 19 October 2007.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 20 October 2008 will be mailed with this decision. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 07 November 2008 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
Office of PCT Legal Administration
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Leonard Smith
Supervisory 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:
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1211 Geneve 20 (SUISSE)

09 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUITE 3300
CHICAGO IL ILLINOIS 60603

In re Application of CALUSER	:	DECISION ON
PCT No.: PCT/US08/11973	:	
Int. Filing: 20 October 2008	:	PETITION
Priority Date: 19 October 2007	:	
Attorney Docket No.: RLK-CALU-01	:	UNDER 37 CFR 1.10(c)
For: THREE DIMENSIONAL MAPPING DISPLAY SYSTEM FOR DIAGNOSTIC ULTRASOUND MACHINES AND METHOD	:	

This decision is in response to applicant's "Response to an Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of Priority", treated as a petition under 37 CFR 1.10(c), filed in the United States Patent and Trademark Office (USPTO) on 01 December 2008, to accord a filing date of 20 October 2008 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US08/11973 with the United States Receiving Office, claiming a priority date of 19 October 2007 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 21 October 2008.

On 07 November 2008, the Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) was mailed indicating a International filing date of 21 October 2008. An Invitation to Correct Priority Claim and/or Notification of Possibility to Request Restoration of Priority Defects in the International was also mailed inviting applicant to correct the defect where the filing date indicated for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 01 December 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.

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 #ER950528231US, which bears a "Date-In" of "10/20/08". The transmittal letter having "Express Mail" mailing label Express Mail #ER950528231US 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 20 October 2008. Specifically, the "Express Mail" label number ("ER950528231US") 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 20 October 2008.

With regard to applicant's claim to priority, the priority period means the period of 12 months from the filing date of the earlier application whose priority is claimed in the international application. In certain cases, the priority period may expire on a later day. PCT Rule 80.5 states that where the expiration of any period during which any document must reach a national Office falls on a day on which the Office is not open to the public for purposes of the transaction of official business, the period shall expire on the next subsequent day on which the circumstance does not exist. In the instant case, the priority period expired on 19 October 2008, a Sunday and a day which the United States Receiving Office is not open for official business. The next official business day was Monday, 20 October 2008. Under these circumstances, the filing of this international application is considered to be filed within the 12 month period. Applicant's claim to priority of the earlier application remains in effect.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of 20 October 2008 is **GRANTED**. Applicant's claim to the priority application remains effective.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 07 November 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 20 October 2008.

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
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1211, Geneva 20 Switzerland

Enclosure: FORM PCT/RO/US/105

16 MAR 2009

United States Patent and Trademark Office

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In re Application of	:	
The University Of Akron	:	DECISION
PCT No.: PCT/US2008/012436	:	
Int. Filing Date: 03 November 2008	:	ON
Priority Date: 01 November 2007	:	
Attorney's Docket No.: 089498.0721	:	PETITION
For: Thermoplastic Amphiphilic Co-Networks	:	

This is in response to applicants' "Petition to Recognize Proper Filing Date" filed on 10 December 2008.

BACKGROUND

Applicants filed this international application with the United States receiving Office on 03 November 2008. The PCT Request form claimed an earliest priority date of 01 November 2007.

On 01 December 2008, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) reflecting an international filing date of "03 Nov 2008" and a priority date of "01 Nov 2007" was mailed to counsel.

DISCUSSION

Petitioner requests, in effect, that this international application be accorded an international filing date of 01 November 2008, rather than 03 November 2008 as recorded on Form PCT/RO/105, because "1 November 2008 was a Saturday and that the filing of the above-identified patent application on Monday, 3 November 2008 affords them the filing date of 1 November 2008. This will then correspond with the earliest claimed priority date of 1 November 2007."

PCT Article 11(1) states that

The receiving Office shall accord as the international filing date the date of receipt of the international application...

While PCT Rule 20.2(a) states that

If the receiving Office determines that, at the time of receipt of the papers purporting to be an international application, the requirements of Article 11(1) were fulfilled, the receiving Office shall accord as the international filing date the date of receipt of the international application.

Petitioner does not contest that the international application was actually received by the United States Receiving Office (RO/US) on 03 November 2008. Neither the PCT nor the Regulations provide for a different international filing date to be accorded based on the facts presented in this case. However, counsel's attention is called, respectfully, to PCT Rules 2.4 and 80.5:

> ***§ 2.4 "Priority Period"***
>
> *(a) Whenever the term "priority period" is used in relation to a priority claim, it shall be construed as meaning the period of 12 months from the filing date of the earlier application whose priority is so claimed. The day of filing of the earlier application shall not be included in that period.*
>
> *(b) Rule 80.5 shall apply mutatis mutandis to the priority period.*
>
> ***§ 80.5 Expiration on a Non-Working Day or Official Holiday***
>
> *If the expiration of any period during which any document or fee must reach a national Office or intergovernmental organization falls on a day:*
>
> *(i) on which such Office or organization is not open to the public for the purposes of the transaction of official business;*
>
> *(ii) on which ordinary mail is not delivered in the locality in which such Office or organization is situated;*
>
> *(iii) which, where such Office or organization is situated in more than one locality, is an official holiday in at least one of the localities in which such Office or organization is situated, and in circumstances where the national law applicable by that Office or organization provides, in respect of national applications, that, in such a case, such period shall expire on a subsequent day; or*
>
> *(iv) which, where such Office is the government authority of a Contracting State entrusted with the granting of patents, is an official holiday in part of that Contracting State, and in circumstances where the national law applicable by that Office provides, in respect of national applications, that, in such a case, such period shall expire on a subsequent day; the period shall expire on the next subsequent day on which none of the said four circumstances exists.*

In view of Rules 2.4 and 80.5, the priority period is considered to encompass the earliest claimed priority date of 01 November 2007. Thus, the international application, having an international filing date of 03 November 2008, is eligible to claim a priority date of 01 November 2007.

DECISION

The petition is **DISMISSED**, without prejudice, for the reasons stated herein.

No response to this Decision is required. 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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UNITED STATES PATENT AND TRADEMARK OFFICE

30 MAR 2009

Commissioner for Patents
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John A Fortkort
9442 N. Capital of Texas Highway
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Austin, Texas 78759

In re Application of:	:	
NUVENTIX, INC. et al.	:	DECISION
PCT Application No.: PCT/US2008/012550	:	
Int. Filing Date: 06 November 2008	:	UNDER
Priority Date: 06 November 2007	:	
Atty Docket No.: NVTX032PCT	:	
For: METHOD AND APPARATUS FOR	:	37 CFR § 1.10 (c)
CONTROLLING DIAPHRAGM DISPLACEMENT	:	
IN SYNTHETIC JET ACTUATORS	:	

This decision is in response to applicants' "PETITION TO CORRECT INTERNATINAL FILING DATE UNDER 37 CFR 1.10(C) AND MPEP 513" filed 29 January 2009, 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 26 November 2008, the present application was accorded an international filing date of 07 November 2008 by the United States Receiving Office (RO/US).

On 29 January 2009, applicants filed the present petition requesting the international filing date be corrected to 06 November 2008. The petition was accompanied by, *inter alia*, a copy of the customer receipt for "Express Mail" label number EV 881910726US.

DISCUSSION

Applicants request that the IFD in the above-captioned international application be corrected to 06 November 2008.

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 06 November 2008. Accordingly, pursuant to 37 CFR § 1.10(c), the international filing date is appropriately corrected 06 November 2008.

CONCLUSION

Applicants' petition requesting the international filing date be corrected to 06 November 2008 is **GRANTED**. The application has a proper priority claim with a filing date of 06 November 2007.

A corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) with the international filing date of 06 November 2008 will be mailed with this decision. Further, the NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE mailed on 26 November 2008 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

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)

UNITED STATES PATENT AND TRADEMARK OFFICE

22 DEC 2008

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

TAMSEN VALOIR
BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, SUITE 3400
HOUSTON TX TEXAS 77002

In re Application of:	:	
RICE UNIVERSITY	:	DECISION ON PETITION
PCT No.: PCT/US2008/012583	:	(37 CFR 1.10(e))
Receipt Date: 06 November 2008	:	
Priority Date Claimed: 06 November 2007	:	
Atty Docket No.: 31175413-027	:	
For: PRODUCTION OF GAMMA-HYDROXYBUTRATE	:	

This decision is issued in response to the "Petition For Filing Date Under 37 CFR 1.10(e)" filed 03 December 2008, and supplemented on 12 December 2008. No petition fee is required.

BACKGROUND

On 06 November 2008, applicants filed via "Express Mail" materials to initiate the present international application. These materials included the following: transmittal letter (1 page), PCT Request (4 pages), PCT Fee Calculation Sheet, with fee payment authorization (1 page), description (14 pages), claims (1 page), abstract (1 page), and drawings (5 pages).

On 03 December 2008, after apparently having been advised that the USPTO database did not contain a record of the international application filed 06 November 2008, applicant filed the petition considered herein. The petition includes a copy of the previously filed materials and requests that such materials be accorded a filing date of 06 November 2008.[1]

On 09 December 2008, having received and processed the materials filed by applicant on 06 November 2008, the United States Receiving Office (RO/US) mailed, among other forms, a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) indicating that the application had been accorded an international filing date of 06 November 2008.

[1] It is noted that the petition was originally filed under application number PCT/US2008/82704, which appears to be an incomplete duplicate filing of the present application submitted through the EFS-Web filing system. However, as confirmed in the supplemental correspondence filed by applicant on 12 December 2008, the petition is properly treated in the present application.

On 12 December 2008, applicant filed supplemental correspondence requesting withdrawal of the present petition (in light of the RO/US according the application materials the desired filing date of 06 November 2008).

DISCUSSION

As discussed above, the original papers filed by applicant via "Express Mail" on 06 November (i.e., one-page transmittal letter, four-page PCT Request, one-page PCT Fee Calculation Sheet, fourteen-page description, one-page claims, one-page abstract, and five-pages of drawings) have now been processed by the USPTO and assigned international application number PCT/US2008/12583. The application materials have been accorded the filing date of 06 November 2008, the filing date requested by applicant in the present petition.

Based on the above (and applicant's supplemental request to withdraw the petition), applicant's petition under 37 CFR 1.10(e) requesting that the RO/US accord the application materials filed herein a filing date of 06 November 2008 is appropriately dismissed as moot.

CONCLUSION

Applicant's petition is **DISMISSED AS MOOT.**

As indicated in the "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 09 December 2008, the international application materials referred to by applicant in the present petition have been assigned international application number PCT/US2008/012583 and accorded a filing date of 06 November 2008.

The application is being referred to the RO/US for further processing in accordance with this decision.

Richard M. Ross
Attorney Advisor
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Facsimile: (571) 273-0459

2 6 JAN 2009

United States Patent and Trademark Office

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

DAVID R. STEVENS
STEVENS LAW GROUP
1754 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

In re Application of	:	
Novafora, Inc.	:	DECISION
PCT No.: PCT/US08/013196	:	
Int. Filing Date: 21 November 2008	:	ON
Priority Date: 21 November 2007	:	
Attorney's Docket No.: NOVA-00700WO	:	PETITION
For: Method And Apparatus For Generation, Distribution And Display Of Interactive Video Content	:	

This is in response to applicants' petition filed under 37 CFR 1.10(c) filed on 12 December 2008 and request under PCT Rule 26bis.3 filed on 21 January 2009.

BACKGROUND

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

On 17 December 2008, a Notification Of The International Application Number And Of The International Filing Date (Form PCT/RO/105) indicating an international filing date of 25 November 2008 was mailed to applicants. Also mailed was an Invitation To Correct Priority Claim (Form PCT/RO/110) which indicated the priority claim to be defective because the claimed priority date did not fall within 12 months of the international filing date..

DISCUSSION

Petition Under 37 CFR 1.10(c)

Petitioner requests in effect that this international application be accorded an international filing date of 21 November 2008, rather than 25 November 2008 as indicated on Form PCT/RO/105, and accordingly that the priority claim to application no. 11/944,290 be accepted.

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, EU101855587US, was recorded on the Transmittal Letter which accompanied and itemized the filing of this international application.

With regard to 37 CFR 1.10(c)(3), petitioner has provided a copy of the Customer Copy of the Express Mail mailing label, number EU101855587US, which shows a "date-in" of "11 21 08." 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) and the Invitation To Correct Priority Claim (Form PCT/RO/110) mailed on 17 December 2008 are both hereby **VACATED**.

Request Under PCT Rule 26bis.3

Applicants request restoration of the right of priority to U.S. application no. 11/944,290, filed 21 November 2007. However, in view of the above discussion, the correct international filing date (21 November 2008) falls within 12 months of the 21 November 2007 filing date of the priority application. Therefore, the request under Rule 26bis.3 is MOOT. Accordingly, and based on the circumstances of this particular case, the $1410.00 fee (fee code 1454) is being refunded to petitioner's Deposit Account 50-2421.

DECISION

The petition under 37 CFR 1.10(c) is **GRANTED**, for the reasons described *supra*.

The request under PCT Rule 26bis.3 is **DISMISSED AS MOOT**, without prejudice.

A copy of the first sheet of the Request (Form PCT/RO/101) showing the corrected international filing date of **21 November 2008** is attached hereto. 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 **21 November 2008** 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

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only
PCT/US2008/013196
International Application No.

21 NOV 2008 (21.11.2008)
International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* NOVA-00700WO

Box No. I TITLE OF INVENTION

Method and Apparatus for Generation, Distribution and Display of Interactive Video 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.)*

Novafora, Inc.
2460 N. 1st Street, Suite 200
San Jose, CA 95131
United States of America

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.)*

STEVENS, David R.
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San Jose, CA 95110
United States of America

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Facsimile No.
(408)288-7542

Agent's registration No. with the Office
38,626

☐ **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.

08 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick A. Walker
McCarter & English, LLP
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19801

In re Application of :
KUBOTA RESEARCH, INC. :
PCT No.: PCT/US2008/013552 :
Int. Filing Date: 10 December 2008 : DECISION ON PETITION
Priority Date: 05 December 2007 :
Attorney Docket No.: 114291-00005 :
For: COMPOSITE ARTICLE AND METHOD OF MANUFACTURE :

This decision is issued in response to applicant's request to withdraw the above-referenced PCT application filed 30 April 2009.

BACKGROUND

The United States Receiving Office accorded an international filing date of 10 December 2008 to the above-identified international application.

On 30 April 2009, applicant filed a request to withdraw the above-identified application and a Request for Refund.

DISCUSSION

Under PCT Rule 90bis.1, the withdrawal is effective upon receipt of the notice addressed by the applicant to the receiving Office. Accordingly, international application PCT/US2008/013552 was withdrawn on 30 April 2009, the date on which the letter requesting withdrawal of the application and a refund of fees was received by the USPTO.

Additionally, petitioner has filed a request for refund of all application 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 Authority, therefore, applicant is not entitled a refund of the search fee. The $300.00 transmittal fee is not refundable (see 37 CFR 1.446). 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 30 April 2009 receipt date of the notice effecting withdrawal for forwarding to the International Bureau (IB) and the U.S. International Searching Authority (ISA).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3298
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01 APR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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New Haven, CT 06510-2802

In re Application of :
UTC POWER CORPORATION :
PCT No.: PCT/US2008/050075 :
Int. Filing Date: 03 January 2008 :
Priority Date: None : **DECISION**
Attorney's Docket No.: 02-578-3 :
For: PROTECTIVE AND PRECIPITATION :
LAYERS FOR PEM FUEL CELL :

This decision is in response to applicant's "Petition for Reexamination" filed with the United States International Searching Authority (ISA/US) on 20 March 2009. This petition is considered under 37 CFR 1.181. No fee is required.

BACKGROUND

On 08 September 2008, an Invitation to Pay Additional Fees and, Where Applicable, Protest Fee (Form PCT/ISA/206) was mailed indicating that there was two sets of inventions in the subject application; *i.e.*, claims 1-38 and claims 39-46. Applicant was invited to pay fees of $1,800.00 for the additional invention.

On 25 September 2008, applicant submitted a "Response to Invitation to Pay Additional Fees and, Where Applicable, Protest Fee" requesting that the ISA/US charge the required $1,800.00 fee to Deposit Account No. 02-0184.

On 24 November 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 1-38 only.

On 20 March 2009, the subject petition was filed requesting reexamination.

DISCUSSION

Applicant timely responded to the Form PCT/ISA/206 requesting that the additional fee of $1,800.00 be charged to Deposit Account No. 02-184. Applicant was authorized to charge fees on the Deposit Account and there were sufficient funds in the Deposit Account to charge the required fee.

However, the ISA/US failed to act upon this response. As such, the ISR and Written Opinion considered only claims 1-38. 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 24 November 2008 are both **VACATED**.

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 forwarded to the ISA/US for reexamination of all claims. A copy of this decision will be forwarded 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 APR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT E. HANSON
SONNENSCHEIN NATH & ROSENTHAL LLP
1717 MAIN STREET, SUITE 3400
DALLAS, TX 74201

In re Application of	:	
SEMINIS VEGETABLE SEEDS, Inc.	:	
PCT No.: PCT/US2008/051840	:	DECISION ON
Int. Filing Date: 24 January 2008	:	
Priority Date: 24 January 2007	:	PETITION
Attorney's Docket No.: SEMS:018WO	:	
For: LIQUID DENSITY SEPARATION SYSTEM	:	UNDER 37 CFR 1.181

This decision is on applicants' "Request For Withdrawal of Application and For Refund of Fees," filed in the United States Receiving Office on 07 February 2008.

BACKGROUND

On 24 January 2008, applicants submitted to the United States Receiving Office (RO/US), *inter alia*, a Request, description, claims, abstract, drawings, and a Fee calculation sheet.

On 07 February 2008, Robert Hanson filed a request to withdraw this international application and requested that the fees be refunded.

On 05 March 2008, RO/US mailed, an Invitation to Correct Defects In the International Application (Form PCT/RO/106), a Notification Concerning Payment of Prescribed Fees (Form PCT/RO/102), a Notification of Receipt of Search Copy (Form PCT/ISA/202) and a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

DISCUSSION

Under PCT Rule 90*bis*.1, an applicant may withdraw an international application prior to 30 months. The withdrawal request is not signed by the applicants nor is it signed by an agent or common representative in accordance with PCT Rule 90.

CONCLUSION

For the reasons set forth above, the request to withdraw the international application and to refund fees is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter may be filed electronically 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 RO/US 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

26 MAR 2009

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

JAMES C. SCOTT
1375 EAST NINTH STREET
ONE CLEVELAND CENTER, 9TH FL
CLEVELAND OH 44114

In re Application of	:	
SEALY TECHNOLOGY LLC	:	DECISION ON
PCT No.: PCT/US2008/051849	:	
Int. Filing Date: 24 January 2008	:	PETITION
Priority Date: 24 January 2007	:	
Docket No.: US EFILING	:	UNDER 37 CFR 1.182
For: SUSPENDED FLEXIBLE MATRIX SUPPORT SYSTEM	:	

This decision is in response to applicant's Petition Under 37 CFR 1.182, to extract document from a PCT Zip File, filed with the United States Patent and Trademark Office on 26 February 2009.

BACKGROUND

On 24 January 2008, applicants electronically filed a zip file identified as including fees and the request form and a separate fee worksheet in "pdf". The documents were assigned application no. PCT/US2008/051849.

On 05 August 2008, the Office mailed Invitation to Correct the Purported International Application (Form PCT/RO/103). The Invitation indicated that there did not appear to be parts that on their face appeared to be a description or claims.

On 26 February 2009, applicant filed this petition under 37 CFR 1.182 to extract the required files from the PCT zip file filed on 24 January 2008.

DISCUSSION

The Office will extract the missing description and claims from the PCT zip file, as requested. The $400 petition fee will be charged to deposit account no. 50-0959, as authorized.

Contrary to applicant's assertion, applicant did not follow the instructions in place at the time for electronically filing an international application. As one example, applicant's attention is directed the FAQs on using EFS-Web:

> Can I use PCT-SAFE in its full operational mode to prepare my entire international application in electronic form and to file it via secure on-line transmission with the United States Receiving Office (RO/US)?
>
> No. EFS-Web will only allow submission of the PCT-EASY .zip file created by PCT-SAFE when operated in the PCT-EASY mode. The PCT-EASY .zip file

will contain the Request and fee calculation sheet in PDF format. All other documents or application parts (e.g. description, claims, drawings and abstract) must be separately prepared and attached as PDF documents. (15 Aug 2007).

CONCLUSION

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

The Invitation to Correct the Purported International Application (Form PCT/RO/103) mailed 05 August 2008 is **VACATED**.

This application is being returned to PCT Operations 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
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18 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT BUNN
1402 W. 11TH #6
ALAMOSA CO 81101

In re Application of	:	
BUNN, Robert	:	DECISION
PCT No.: PCT/US2008/052239	:	
Date of Receipt: 29 January 2008	:	
Priority Date Claimed: 26 January 2007	:	
Attorney's Docket No.: BUNN8	:	
For: INTERFACE FOR ASSISTING IN THE CONSTRUCTION OF SEARCH QUERIES	:	

This decision is response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 26 March 2008.

On 29 January 2008, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US).

On 07 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) indicating an international filing date of 29 January 2008 and a priority date of 01 July 2007.

On 26 March 2008, applicant filed the instant request to restore priority.

Applicant has included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 60/886,656 filed 26 January 2007) was listed in Box VI-1 of the PCT Request filed 29 January 2008 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $1,410 petition fee. As such, it is appropriate to grant applicant's petition at this time.

For the reasons discussed above, applicant's petition to restore the right of priority under PCT Rule 26*bis*.3 is **GRANTED**.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) mailed 07 March 2008 is hereby **VACATED**. A new PCT/RO/105 indicating the priority date as 26 January 2007 is attached.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
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
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Enc.: Corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105)

NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

1 4 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
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JAMES A. LUCAS
DRIGGS, HOGG, DAUGHERTY & DEL ZOPPO CO., L.P.A.
38500 CHARDON ROAD
WILLOUGHBY HILLS OH 44094

In re Application of	:	DECISION ON
BENNETT. John E.	:	
PCT No.: PCT/US2008/054839	:	PETITION
Int. Filing Date: 25 February 2008	:	
Priority Date: 24 March 2007	:	
Attorney's Docket No.: BEN-10-6259-PCT-C	:	
For: COMPOSITE ANODE FOR CATHODIC PROTECTION	:	

This decision is in response to applicant's submissions filed 06 May 2008 and 07 May 2008, which have been treated as a request to withdraw a priority claim under PCT Rule 90bis.3.

BACKGROUND

On 28 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) according the application and international filing date of 25 February 2008 and a priority date of 24 March 2007.

On 28 March 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 that the priority claim in Item (1) of Box VI of the Request was beyond one year from the filing date of the international application.

On 06 May 2008, applicant submitted a "STATEMENT FOR THE RESTORATION OF PRIORITY" requesting the priority claim to U.S. provisional application number 60/789,261 filed 06 April 2006 be withdrawn. This submission has properly been treated as a request to withdraw a priority claim under PCT Rule 90bis.3. (The "STATEMENT" does not include a request for the restoration of priority despite its title.)

On 07 May 2008, applicant filed a duplicate of the 06 May 2008 submission.

On 20 May 2008, the RO/US mailed a NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159) indicating, *inter alia*, that the request to restore the right of priority to international application PCT/US/07/7317 was restored based on the finding that the failure to file the international application within the priority period was unintentional.

On 23 May 2008, the International Bureau (IB) of WIPO mailed a NOTIFICATION RELATING TO PRIORITY CLAIM (Form PCT/IB/318) indicating that the priority claim to U.S. provisional application number 60/789,261 filed 06 April 2006 was considered void.

DISCUSSION

The NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY mailed by the RO/US on 20 May 2008 was mailed in error and is hereby VACATED. The international application was filed within one year of the filing date of the earlier international application and a request to restore priority is unnecessary.

The request to withdraw the priority claim under PCT Rule 90bis.3 to U.S. provisional application number 60/789,261 filed 06 April 2006 is moot since the claim has been declared considered void in the NOTIFICATION RELATING TO PRIORITY CLAIM mailed 23 May 2008.

CONCLUSION

For the reasons set forth above, the NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY mailed 20 May 2008 is VACATED.

For the reasons set forth above, the request under PCT Rule 90bis.3 is **DISMISSED** as **MOOT**.

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
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0 1 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LARRIN BERGMAN
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312 SOUTH THIRD STREET
MINNEAPOLIS MN MINNESOTA 55415-1002

In re Application of	:	
PUREGENERATION (UK) LTD.	:	DECISION
PCT No.: PCT/US2008/054929	:	
Date of Receipt: 26 February 2008	:	
Priority Date Claimed: 25 February 2007	:	
Attorney's Docket No.: None	:	
For: CARBON DIOXIDE SEQUESTERING FUEL SYNTHESIS SYSTEM AND USE THEREOF	:	

This is in response to applicant's petition under 37 CFR 1.182 filed on 22 April 2008.

BACKGROUND

On 26 February 2008, applicant filed international application papers including a Request, description, claims, abstract and drawings, with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number. In Box No. VI of the Request, applicant claimed priority to US provisional application 60/903,439 filed 25 February 2007.

On 22 April 2008, applicant filed the instant petition.

DISCUSSION

The petition requests that the instant application be forwarded to the International Bureau (IB) for processing in its capacity as a receiving Office so that applicant may request restoration of the right of priority under the in spite of due care standard. (The RO/US only decides this matter under the unintentional standard.) A change in the RO for this matter can be made upon request. However, the request must be made before the search copy for the application has been prepared and communicated. In this case, the NOTIFICATION OF RECEIPT OF SEARCH COPY (Form PCT/ISA/202) was mailed 07 April 2008. Thus, the request is not timely and the application will not be transferred to the RO/IB.

It is unclear whether applicant would like the RO/US to consider the request for restoration of priority under the unintentional standard. Authorization to charge any additional fees was filed with the submission of 22 April 2008. Applicant may request such consideration by filing a submission to that effect.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 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 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 United States Receiving Office (RO/US) for further processing in accordance with this decision.

/Daniel Stemmer/

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UNITED STATES PATENT AND TRADEMARK OFFICE

29 MAY 2009

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MARGER JOHNSON & MCCOLLOM, PC
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PORTLAND OR OREGON 97204

In re Application of :
ACRES-FIORE, INC. :
PCT No.: PCT/US08/54977 :
Int. Filing Date: 26 February 2008 : DECISION
Priority Date: 27 February 2007 :
Attorney's Docket No.: 1351-0034 :
For: METHOD AND APPARATUS FOR :
INDICATING WIN PROXIMITY :

This decision is response to applicant's "REQUEST FOR REFUND" filed 08 July 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 February 2008, applicant filed a Request in the United States Receiving Office (RO/US).

On 04 April 2008, applicant was mailed an "Invitation to Correct Priority Claim" (Form PCT/RO/110).

On 25 April 2008, applicant filed a "REQUEST TO RESTORE RIGHT OF PRIORITY" as to priority item #3 of the above-captioned international application.

On 27 June 2008, applicant was mailed a "Notification of Intended Refusal of Request to Restore Right of Priority and/or Invitation to Furnish Declaration or Other Evidence" (Form PCT/RO/158) affording applicant 30 days to provide additional evidence as to the unintentional nature of missing the one year date for a priority claim. Applicant was advised that the time period for filing the request expired on 04 March 2008 and that the 30 days was being afforded to applicant for any showing that the request had in fact been made prior to the expiration of 14 months from the priority date.

On 08 July 2008, applicant submitted the present petition requesting a refund of the $1410.00 petition fee charged for consideration of applicant's request for restoration of priority.

DISCUSSION

Applicant is seeking of a refund of the restoration of priority fee taken on 25 April 2008. Applicant states that the Form PCT/RO/110 mailed 04 April 2008 inviting applicant to correct

the priority claim was misleading and but for the language on page three of the invitation applicant would not have made the priority request.

Applicant is advised that the Form PCT/RO/110 notes a defect as to priority item three (filing date for earlier application does not fall within 12 months preceding the international filing date) and invites applicant to correct in order to preserve the priority claim. The invitation does not mandate a course of action. Often a Form PCT/RO/110 is mailed because the number of the priority item is incorrect resulting in an untimely priority claim which is later corrected pursuant to PCT Rule 26*bis*.1. The form does on page three provide a "Notification of the **Possibility** to Request Restoration of The Right of Priority" (boldness added). However, this section specifically details that the applicant may submit "to the receiving Office , within the time limited indicated below, a request to restore the right of priority." The following section provides that the request must be filed "**within two months** from the date on which the priority period expired..." and provides the rule; PCT Rule 26*bis*.3(e). Thus, it is clear that applicant had been provided with the specific requirements of the right of restoration of priority prior to the request being filed and is not entitled to a refund of the applied fee.

CONCLUSION

Applicant's request for 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.

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17 DEC 2009

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In re Application of	:	
HYMEL, Chris	:	
PCT No.: PCT/US2008/056350	:	
Int. Filing Date: 09 March 2008	:	DECISION
Priority Date: 09 March 2007	:	
Attorney's Docket No.: HYMELND	:	
For: UTILITY AND METHOD ...	:	
ACQUISITION AND PROCESSING	:	

This decision is on applicants' request to withdraw an international application and refund fees, filed in the United States Receiving Office on 23 July 2008.

BACKGROUND

On 09 March 2008, applicants submitted to the United States Receiving Office (RO/US), *inter alia*, a Request, description, claims, abstract, drawings, and a Fee calculation sheet.

On 03 April 2008, RO/US mailed, 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).

On 28 May 2008, RO/US mailed Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) indicating that $3889 was required within one month of mailing and that failure to pay the fee would result in the withdrawal of the application by the Receiving Office.

On 11 June 2008, applicants paid the outstanding balance.

On 21 July 2008, ISA/US mailed Notification of Receipt of Search Copy (Form PCT/ISA/202) indicating that the International Searching Authority had received the search copy of the international application.

On 23 July 2008, applicants filed this request to withdraw the international application and to refund the fees stating that this application was a duplicate filing.

On 01 October 2008, ISA/US mailed the Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (Form PCT/ISA/220), the International Search Report (Form PCT/ISA/210) and the Written Opinion of the International Searching Authority (Form PCT/ISA/237).

DISCUSSION

The requirements for the withdrawal of an international application are set forth in PCT Rule 90*bis*.1. The withdrawal request must be signed by the applicant or by an agent or common representative in accordance with PCT Rule 90. Applicant's request is not so signed.

Regardless, even if it had been appropriately authorized, when this refund request was made, the application processing had progressed, with the search copy having been forwarded to the search authority, so that no fees eligible for refund.

CONCLUSION

For the reasons set forth above, the request to withdraw the international application and to refund the fees is **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.

/Erin P. Thomson/

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cc: International Bureau
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UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 JUN 2008

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Jon E. Holland
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In re Application of	:	
CAIN, DON	:	
PCT No.: PCT/US08/56887	:	DECISION ON
Int. Filing Date: 13 March 2008	:	
Priority Date: 13 March 2007	:	PETITION
Attorney Docket No.: 320305-2010	:	
For: SYSTEMS AND METHODS FOR BLADDERLESS TIRE CURING	:	UNDER 37 CFR 1.182

BACKGROUND

Applicant's communication filed on 07 May 2008 is being treated as a petition under 37 CFR 1.182. Applicant is requesting to change the International Searching Authority for the above-identified application to the Korean Intellectual Property Office. Applicant also requested a refund of $1556 in the even the request is granted.

DISCUSSION

On 13 March 2008, applicant filed international application PCT/US2008/56887, which claimed priority of an earlier U.S. provisional application filed 13 March 2007. Box No. VII of the PCT Request indicated the United States Patent and Trademark Office (USPTO) (ISA/US) as the chosen International Searching Authority.

The records of the United States Receiving Office (RO/US) show that search copy of the international application has been transmitted to the ISA/US and the search has begun. Therefore, applicant's petition under 37 CFR 1.182 cannot be granted.

CONCLUSION

For the reason listed above, applicant's petition under 37 CFR 1.182 to change the International Searching Authority is DENIED.

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 SEP 2008

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In re Application of	:	
SONOCO DEVELOPMENT, INC.	:	
PCT No.: PCT/US08/56957	:	DECISION ON PETITION
Int. Filing Date: 14 March 2008	:	
Priority Date: 30 March 2007	:	
Attorney Docket No.: 4760-1(PCT)	:	
For: LOAD DISTRIBUTING APPARATUS FOR CORNER POSTS	:	

This is a decision on applicant's "Petition To Correct International Filing Date" filed in the United States Patent and Trademark Office (USPTO) on 02 September 2008.

On 14 March 2008, applicant filed a PCT Request with the USPTO which claimed priority of an earlier U.S. application filed 30 March 2007.

On 02 September 2008, applicant filed the present petition seeking an international filing date of 14 March 2008.

An examination of USPTO records finds that the subject international application was accorded the international filing date requested, 14 March 2008. For this reason, applicant's petition under 37 CFR 1.10(c) is **DISMISSED as moot**. A copy of the "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105) accompanies the decision.

This application is being returned to the United States Receiving Office (RO/US) for continued processing of the international application.

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CC: International Bureau of WIPO
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14 APR 2008

Andrew F. Young
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In re Application of: GATCO TECHNOLOGIES, INC.
PCT No.: PCT/US08/57112
Receipt Date: 14 March 2008
Priority Date: 14 March 2007
Attorney's Docket No.: GATCO.P002PCT
For: SYSTEM, METHOD AND APPARATUS FOR IMPROVED TRANSPORTATION MANAGEMENT

DECISION

This decision is issued in response to applicant's "Petition to Change Searching Authority" filed 10 April 2008, which is being treated as a petition under 37 CFR 1.182. Applicant is requesting to change the searching authority for the above-identified application to the Korean Patent Office (ISA/KR). Deposit Account No. 10-0100 has been charged the required $400 petition fee.

On 14 March 2008, applicant filed international application PCT/US08/57112, which claimed priority of an earlier US provisional application filed 14 March 2007. In Box No. VII-1 International Searching Authority, applicant indicated the United States (ISA/US) as the International Searching Authority.

The records of the ISA/US show that processing of the international search report has not begun. Since the ISA/US has not begun working on the establishment of the International Search Report as of receipt of the petition, applicant's petition under 37CFR 1.182 is **GRANTED**. The $1800 search fee for the ISA/US will be refunded to Deposit Account no. 10-0100. The $244 search fee for ISA /US has been charged to Deposit Account no. 10-0100.

This application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision, including preparing the search copy of this application and forwarding the search copy of this application to the Korean Patent Office in its capacity as the International Searching Authority together with a copy of this decision.

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24 MAY 2010

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In re Application of	:	
RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK	:	DECISION
PCT No.: PCT/US2008/058759	:	
Date of Receipt: 28 March 2008	:	
Priority Date Claimed: 28 March 2007	:	
Attorney's Docket No.: 14421/46176	:	
For: INHIBITORS OF NF-KB ACTIVITY	:	

This is in response to applicant's petition under 37 CFR 1.181 filed 14 November 2008 to reissue the International Search Report and the Written Opinion of the International Searching Authority to include claims 2-6 as well as claims 1 and 7. No petition fee is required.

BACKGROUND

On 28 March 2008, applicant filed international application papers including a Request, description, claims, abstract, drawings, and Sequence Listing with the United States Receiving Office (RO/US). The submission was assigned International Application Number PCT/US2008/058759.

On 10 September 2008, the ISA/US mailed an International Search Report and a Written Opinion of the International Searching Authority on claims 1 and 7 and declared claims 2-6 unsearchable because a request for a Computer Readable Form (CRF) of the Sequence Listing had not been responded to.

On 10 November 2008, applicant submitted a Sequence Listing in Computer Readable Form.

On 14 November 2008, applicant filed the instant petition under 37 CFR 1.181.

DISCUSSION

As noted by applicant in the petition, although an INVITATION TO PAY ADDITIONAL FEES AND, WHERE APPLICABLE, PROTEST FEE (Form PCT/ISA/206) and a paper

indicating that a CRF is necessary, both dated 16 July 2008, appear in the electronic file, there is no evidence that either of these papers were mailed.

Additionally, where applicants can establish nonreceipt of a communication, then the communication is deemed as not having been mailed. 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 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." Such a docket record has been provided. Thus, item (3) has been met as well. Thus, even if the Form PCT/ISA/206 and the paper indicating that a CRF was required were mailed on 16 July 2008, applicant has established non-receipt of these papers.

CONCLUSION

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

This application is being forwarded to the ISA/US (Art Unit 1647) for further processing in accordance with this decision, including preparation and mailing of a new International Search Report and Written Opinion covering claims 2-6 as well as claims 1 and 7.

/Daniel Stemmer/

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22 OCT 2008

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In re Application of DIGICORP, INC.
PCT Application No.: PCT/US2008/059588
Int. Filing Date: 07 April 2008
Priority Date Claimed: 06 April 2007
Attorney Docket No.: 1119-P4-PCT
For: SYSTEM AND METHOD FOR DISPATCHING FLEXIBLE CONTENT PODCAST FILES

DECISION

This is in response to applicant's "Response to the Notification That the International Application is Considered to be Withdrawn" filed 26 August 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 07 April 2008, 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 June 2008, the RO/US mailed an Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133).

On 08 July 2008, applicant purportedly filed a credit card payment form (Form PTO-2038).

On 21 July 2008, the RO/US mailed a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117).

On 26 August 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of USPTO records reveals that Form PTO-2038 purportedly filed on 08 July 2008 is not present. Although the copy of the Auto-Reply Facsimile Transmission submitted with the petition establishes that a 3 page facsimile transmission was received by the USPTO on 08 July 2008, petitioner has not provided a complete copy of such 3 page correspondence together with a statement from Daniel Nakaji (i.e. the person with apparent firsthand knowledge of the facsimile transmission) certifying that the copy is a true copy of the correspondence filed on 08 July 2008.

CONCLUSION

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

If reconsideration on the merits of this 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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In re Application of DIGICORP, INC. :
PCT Application No.: PCT/US2008/059588 :
Int. Filing Date: 07 April 2008 :
Priority Date Claimed: 06 April 2007 : DECISION
Attorney Docket No.: 1119-P4-PCT :
For: SYSTEM AND METHOD FOR :
DISPATCHING FLEXIBLE CONTENT :
PODCAST FILES :

This is in response to applicant's "Renewed Petition under 37 CFR 1.181" filed 22 December 2008.

BACKGROUND

On 07 April 2008, 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 June 2008, the RO/US mailed an Invitation to Pay Prescribed Fees Together with Late Payment Fee (Form PCT/RO/133).

On 08 July 2008, applicant purportedly filed a credit card payment form (Form PTO-2038).

On 21 July 2008, the RO/US mailed a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117).

On 26 August 2008, applicant filed a petition under 37 CFR 1.181.

On 22 October 2008, this Office mailed a decision dismissing the 26 August 2008 petition.

On 22 December 2008, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that a proper fee payment was received by the Office on 08 July 2008. In particular, applicant has furnished a copy of the Auto-Reply Facsimile Transmission submitted with the petition establishes that a 3 page facsimile transmission was received by the USPTO on 08 July 2008. The renewed petition includes a complete copy of the 3 page correspondence together with a statement from Daniel Nakaji (i.e. the person with apparent firsthand knowledge of the facsimile transmission) certifying that the copy is a true copy of the correspondence filed on 08 July 2008.

CONCLUSION

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

The Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) mailed 21 July 2008 is hereby VACATED.

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

Bryan Lin

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12 AUG 2008

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In re Application of	:	
OVALIS, Inc.	:	
PCT App. No.: PCT/US2008/062300	:	DECISION ON
Int'l Filing Date: 01 May 2008	:	
Priority Date: 04 May 2007	:	PETITION
Attorney Docket No.: 15997-4016	:	
For: SYSTEMS AND METHODS FOR TREATING SEPTAL DEFECTS	:	UNDER 37 CFR 1.182

This decision is in response to applicant's Request to Change the International Search Authority, filed with the United States Patent and Trademark Office on 05 May 2008. It has been treated as a Petition Under 37 CFR 1.182.

BACKGROUND

On 01 May 2008, applicant filed *inter alia* a request, a fee calculation sheet and a description.

On 05 May 2008, applicant filed the instant petition to change the international searching authority.

On 12 May 2008, the International Search Authority/ United States mailed Notification of Receipt of Search Copy (Form PCT/ISA/202) indicating that work by the ISA/US had commenced.

DISCUSSION

Work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

The $400 petition fee will be charged to deposit account no. 15-0665, 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 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

04 MAY 2010

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PATRICK MORRIS
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SEATTLE WA WASHINGTON 98111-1208

In re Application of :
ANTHERA PHARMACEUTICALS, Inc. : DECISION ON PETITION
PCT No.: PCT/US08/62577 :
International Filing Date: 02 May 2008 : UNDER 37 CFR 1.182
Priority Date: 03 May 2007 :
Atty. Docket No.: 59385.8072.WO00 :
For: TREATMENT OF CARDIOVASCULAR :
DISEASE AND DYSLIPIDEMIA USING :
SECRETORY PHOSPHOLIPASE A2 (SPLA2) :
INHIBITORS AND SPLA2 INHIBITOR :
COMBINATION THERAPIES :

This decision is in response to applicant's petition under 37 CFR 1.182 filed 01 February 2010 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 May 2008, applicant filed a PCT Request with the United States Receiving Office (RO/US) claiming priority to three earlier applications; the earliest filed 03 May 2007.

On 17 October 2008, applicant filed a request in the USPTO to convert the application 11/874,869 (the third priority claim in the present international application) to a U.S. provisional application.

On 28 October 2008, applicant was mailed a decision granting the request and informing applicant that the new application serial number was 61/190,044.

On 24 September 2009, applicant filed a request under PCT Rule 92*bis* to among other items change the serial number of the third priority item to 61/190,044.

On 21 December 2009, applicant was mailed a "Notification of Decision Concerning Request For Rectification" (Form PCT/RO/109) informing applicant that the requested change would not be made as the request was filed after the deadline for requesting rectification of obvious mistakes under PCT Rule 91.

On 01 February 2010, applicant filed the present petition.

DISCUSSION

A request for correction of the priority serial number must be filed prior to the expiration of sixteen months from the priority date. Applicant is advised that, notwithstanding the timing of the filings in question, the Patent Cooperation Treaty does not make provisions for the correction of priority claims beyond those detailed in PCT Rule 26*bis*. It is not possible for the RO/US to make the change under 37 CFR 1.182. The priority claim remains in effect. It may be possible to have the application number updated in individual national stage offices.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.182 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 or electronically filed utilizing the USPTO's EFS-Web electronic filing system.

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16 MAR 2009

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In re Application of
NATURALNANO RESEARCH, Inc.
PCT No.: PCT/US2008/064640
Int. Filing Date: 23 May 2008
Priority Date: 23 May 2007
Docket No.: 1203 010 401
For: FIRE AND FLAME RETARDANT POLYMER COMPOSITES

DECISION

This decision is in response to applicant's response to the Invitation to Correct Priority Claim or Petition to Accept Priority Claim, filed in the United States Patent and Trademark Office on 12 January 2009.

BACKGROUND

On 23 May 2008, applicant filed international application PCT/US2008/064640, which claimed priority to applications filed on 23 May 2007 and on 23 May 2008.

On 15 December 2008, the Office 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 12 January 2009, applicants filed a response to the Invitation and a petition to accept the priority claim.

DISCUSSION

At issue is applicant's second "priority claim," in which applicant claims "priority" to an application having the same filing date as the international application.

Under 37 CFR 1.6(a), correspondence filed in the United States Patent and Trademark Office is stamped with a *date* of receipt. As such, an application with the same filing date as another application cannot be prior. The Office does not maintain procedures to track the order in which applications are filed within a day, nor does benefit attached to the order of application filing within a day. The applications were contemporaneously filed.

The second claim is not to an *earlier* application filed within the 12 months *prior* to the international filing date.

CONCLUSION

For the reasons discussed above, applicant's petition to accept the priority claim is **DISMISSED**.

This application is being returned to PCT Operations for continued processing.

/Erin P. Thomson/

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15 JUN 2009

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DUANE C. BASCH
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

In re Application of :
NATURALNANO RESEARCH, Inc. :
PCT No.: PCT/US2008/064640 :
Int. Filing Date: 23 May 2008 : DECISION
Priority Date: 23 May 2007 :
Docket No.: 1203 010 401 :
For: FIRE AND FLAME RETARDANT :
POLYMER COMPOSITES :

This decision is in response to applicant's Request for Reconsideration, filed in the United States Patent and Trademark Office on 18 May 2009.

BACKGROUND

On 16 March 2009, the Office mailed Decision, dismissing applicant's request to accept a "priority" claim to an application with the same filing date as the international application.

On 18 May 2009, applicant submitted a renewed petition requesting reconsideration.

DISCUSSION

At issue is applicant's second "priority claim," in which applicant claims "priority" to an application having the same filing date as the international application.

As previously stated, under 37 CFR 1.6(a), correspondence filed in the United States Patent and Trademark Office is stamped with a *date* of receipt. As such, an application with the same filing date as another application cannot be prior. The Office does not maintain procedures to track the order in which applications are filed within a day, nor does benefit attached to the order of application filing within a day. The applications were contemporaneously filed.

The second claim is not to an *earlier* application filed within the 12 months *prior* to the international filing date. See PCT Receiving Office Guidelines, Chapter VII at paragraph 166(d).

CONCLUSION

For the reasons discussed above, applicant's petition to accept the priority claim is **DISMISSED**.

This application is being returned to PCT Operations for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

18 DEC 2009

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WHITHAM, CURTIS, CHRISTOFFERSON & COOK, PC
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190

In re Application of	:	
AERAS GLOBAL TB VACCINE FOUNDATION	:	
PCT No. PCT/US2008/065241	:	
Int. Filing Date: 30 May 2008	:	
Priority Date: 31 May 2007	:	DECISION ON
Attorney Docket No. 08560015TB	:	PETITION
For: ELECTROPORATION OF	:	
MYCOBACTERIUM AND OVEREXPRESSION	:	
OF ANTIGENS IN MYCOBACTERIA	:	

This is a decision on the petition filed 02 December 2009 for change of record and republication of international application which is being treated as a petition under 37 CFR 1.181 to republish the above-identified application.

The petition is **GRANTED**.

The instant application was filed on 30 May 2008 and included, *inter alia*, 43 sheets of description, one sheet containing claims 1-6, 15 sheets of drawings, and a one-sheet abstract.

An Invitation to Correct Defects in the International Application (PCT/RO/106) was mailed to Applicants on 10 June 2008. Applicants filed a reply to the Invitation on 08 August 2008. On 25 August 2008, the replacement sheets of description, claims and abstract were stamped erroneously as substitute sheets and transmitted to the International Bureau. The drawings filed 25 August 2008 were stamped correctly as substitute sheets and transmitted to the International Bureau.

On 11 December 2008 the instant application was published as WO 2008/150969 A1. A review of the file history and the international application publication reveals that the RO/US transmitted the erroneously-stamped sheets of description and claims of the application to the International Bureau for use in the publication process.

It is therefore requested that the International Bureau *republish the international application in due course* using 43 sheets of description, one sheet of claims and one sheet of abstract filed 30 May 2008 and 20 sheets of drawings filed 08 August 2008.

Telephone inquiries concerning this decision should be directed to BethAnne Dayoan at (571) 272-3209.

BethAnne Dayoan
PCT Legal Analyst
Office of PCT Legal Administration

Leonard E. Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

cc: The International Bureau of WIPO
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Switzerland

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0 4 SEP 2009

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SALT LAKE CITY, UT 84111

In re Application of CUMMINS FILTRATION IP INC	:	
PCT Application No.: PCT/US2008/066348	:	
Int. Filing Date: 09 June 2008	:	DECISION
Priority Date Claimed: none	:	
Attorney Docket No.: 8-02-4937pct	:	
For: APPARATUS, SYSTEM, AND METHOD FOR DIVERTING FLUID	:	

This is in response to applicant's petition under 37 CFR 1.182 filed 10 August 2009.

BACKGROUND

On 09 June 2008, 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 August 2009, applicant filed the present petition under 37 CFR 1.182 along with a request to add a priority claim.

DISCUSSION

PCT Rule 26*bis*.1(a) provides that a priority claim may be submitted until the expiration of four months from the international filing date. Because the priority claim in the present application was filed after the deadline set forth in Rule 26*bis*.1(a), the priority claim cannot be added.

The USPTO does not have authority to waive provisions of the PCT or the PCT Regulations beyond what the PCT itself permits. PCT Rule 82 specifies that a delay in meeting a time limit may be excused in certain circumstances due to delay/loss in the mail or interruption in mail service. In the present case, delay/loss in the mail or interruption in mail service has not been alleged. Accordingly, applicant's delay in submitting the priority claim cannot be excused.

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.

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PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

07 AUG 2009

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In re Application of:
NABORS GLOBAL HOLDINGS, INC.
PCT No.: PCT/US2008/067434
Receipt Date: 09 December 2008
Priority Date Claimed: 29 August 2008
Attorney's Docket No.: 38496_76
For: REAL TIME WELL DATA ALERTS

DECISION

This decision is in response to the "Second Response To Invitation To Correct The Purported International Application" filed 28 April 2009.

BACKGROUND

On 19 June 2008, applicant filed purported international application papers with the United States Receiving Office (RO/US). The submission did not include a description, claims, drawings, or abstract.

On 27 October 2008, the RO/US mailed an Invitation to Correct the Purported International Application (Form PCT/RO/103). The Invitation indicated that the materials filed by applicant failed to include a description or claims.

On 09 December 2008, applicant filed a response to the 27 October 2008 invitation, including a statement that the missing elements are incorporated by reference in the international application. The response included a description, claims, and drawings.

On 30 March 2009, the RO/US mailed a Notification on Decision of Confirmation of Incorporation by Reference of Element or Part (Form PCT/RO/114) which indicated that the requirements of PCT Rule 20.6(a) were not met and that the international filing date would be the date on which the missing elements were received (i.e., 09 December 2008).

On 28 April 2009, applicant filed the "Second Response To Invitation To Correct The Purported International Application" considered herein.

DISCUSSION

1. The Materials Filed 09 December 2008 Did Not Comply With PCT Rule 20.6(a)

Applicant argues that the materials filed 09 December 2008 satisfied the requirement that applicant "confirm in accordance with Rule 20.6(a) that the element referred to in Article 11(1)(iii)(d) and/or (e) was incorporated by reference under Rule 4.18." However, PCT Rule 20.6(a)(i) provides that a confirmation of incorporation by reference must be accompanied by "a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned." As stated in the Form PCT/RO/114 mailed 30 March 2009, the materials filed by applicant on 09 December 2008 did not embody "the entire element as contained in the earlier application." In particular, paragraph number 0001 of the description filed 09 December 2009 recites priority application information which was not present in the description as contained in the earlier application. Because the 09 December 2009 submission failed to satisfy the requirements of PCT Rule 20.6(a)(i), such submission did not effectively "confirm in accordance with Rule 20.6(a) that the element referred to in Article 11(1)(iii)(d) and/or (e) was incorporated by reference under Rule 4.18." The request to confirm the incorporation by reference of these materials was therefore properly dismissed.

In the present submission, applicant asserts that, in rejecting applicant's 09 December 2008 request to confirm the incorporation by reference, the RO/US was mistaken in "focusing solely on the document attached to the response." However, PCT Rule 20.6(a) requires satisfaction of **all** the listed elements before incorporation by reference may be confirmed, not just some of these elements. Thus, regardless of whether the 09 December 2008 submission contained the statement of confirmation required by PCT Rule 20.6(a) or whether applicant has complied with PCT Rule 17.1(a), (b), or (b-bis) (thereby satisfying the requirement of PCT Rule 20.6(a)(ii)), the failure of the document attached to the 09 December 2009 response to comply with PCT Rule 20.6(a)(i) is determinative. It was therefore appropriate for the RO/US to "focus" on this attached document when deciding applicant's request for incorporation by reference, as the failure of such document to satisfy the applicable element of PCT Rule 20.6(a) was the reason for rejecting applicant's request.

Finally, applicant asserts that "[f]rom a review of the Invitation (Form PCT/RO/113), it does not appear that compliance with this confirming statement required submission of the incorporated material at that time beyond simply making that confirmation." This statement represents an untenable reading of the Invitation to Correct the Purported International Application (Form PCT/RO/103) mailed on 27 October 2008. Initially, it is noted that the section of the Form PCT/RO/103 which applicant quotes in its response expressly states that any confirmation must be made "in accordance with Rule 20.6(a)." In that PCT Rule 20.6(a) specifically requires the submission of a copy of the sheet or sheets to be incorporated, it is unclear how applicant can read this section of the Form PCT/RO/103 as not requiring submission of the incorporated material. Moreover, immediately following the statement quoted and emphasized by applicant, the Form PCT/RO/103 goes on to state "see Annex for details." The Annex to the Form PCT/RO/103 states that: "Where the applicant wishes to confirm in accordance with Rule 20.6(a) that the element referred to in Article 11(1)(iii)(d) and/or (e) was incorporated by reference under Rule 4.18, the applicant shall furnish, within two months from

the date of the mailing of this invitation (Rule 20.7(a)(i)), the following:" Below this statement, two boxes are checked off. The first box requires written notice confirming the incorporation. The second checked box requires the following (emphasis added): "**Sheet or sheets embodying the entire element as contained in the earlier application.**" In view of the above, applicant's assertion that the Form PCT/RO/103 does not require submission of a copy of the materials to be incorporated is not persuasive.

2. Applicant's 28 April 2009 Submission Is Not Timely Under PCT Rule 20.7(b)

The present submission is accompanied by a copy of the priority document without the unacceptable modification to the description contained in the materials filed 09 December 2008. Applicant asserts that this submission should be considered timely pursuant to PCT Rule 20.7(b).

PCT Rule 20.7(b) states the following:

> Where a correction under Article 11(2) or a notice under Rule 20.6(a) confirming the incorporation by reference of an element referred to in Article 11(1)(iii)(d) or (e) is received by the receiving Office after the expiration of the applicable time limit under paragraph (a) but before that Office sends a notification to the applicant under Rule 20.4(i), that correction or notice shall be considered to have been received within that time limit.

By the express terms of Rule 20.4, a notification under PCT Rule 20.4(i) is issued only "[i]f the receiving Office does not receive, within the applicable time limit under Rule 20.7, a correction or confirmation referred to in Rule 20.3(a), or if a correction or confirmation has been received but the application still does not fulfill the requirements of Article 11(1)."

As discussed above, applicant's 09 December 2008 submission here was not sufficient to confirm the requested incorporation by reference under PCT Rule 20.6(a). However, such submission did include the description and claims necessary to correct the original submission so as to fulfill the outstanding requirements of Article 11(1) and accord the application an international filing date.[1] Because the materials filed by applicant on 09 December 2008 satisfied the requirements of Article 11(1), the issuance of a notification under PCT Rule 20.4(i) is not appropriate in the present application, and no such notification will be issued.[2] Accordingly, PCT Rule 20.7(b), which applies only to circumstances where a "notification to the applicant under Rule 20.4 (i)" is issued, is not applicable in the present application.

Pursuant to PCT Rule 20.7(a)(i), the deadline for applicant to provide all the materials required by PCT Rule 20.6(a) was two months from the 27 October 2008 mailing of the Invitation to Correct the Purported International Application (Form PCT/RO/103), that is, 27

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[1] See PCT Rule 20.3(b)(i): "Where, following an invitation under paragraph (a) or otherwise ... the applicant furnishes to the receiving Office the required correction under Article 11(2) after the date of receipt of the purported international application but on a later date falling within the applicable time limit under Rule 20.7, the receiving Office shall accord that later date as the international filing date and proceed as provided in Rule 20.2(b) and (c)."

[2] Applicant appears to argue that a notification under PCT Rule 20.4(i) is appropriate here because the 09 December 2008 submission was not sufficient to "keep the original international filing date." However, PCT Rule 20.4 refers only to fulfilling the requirements of Article 11(1), not to the fulfilling of such requirements on any particular filing date.

December 2008. The present submission was filed on 28 April 2009, well after the expiration of the applicable time period. Accordingly, the materials included with the present submission were not timely filed and may not be considered under PCT Rule 20.6(a)(i).

CONCLUSION

For the reasons above, the "Second Response To Invitation To Correct The Purported International Application" is DISMISSED without prejudice.

The international filing date for the present international application remains 09 December 2008, the date on which the description, claims, and drawings were first filed herein.

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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10 NOV 2008

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In re Application of	:	
THE GOVERNMENT OF THE UNITED STATES OF AMERICA, AS REPRESENTED BY THE SECRETARY OF THE NAVY	:	DECISION
PCT No.: PCT/US2008/070419	:	
Date of Receipt: 18 July 2008	:	
Priority Date Claimed: 21 May 2007	:	
Attorney's Docket No.: 98442-WO1	:	
For: SOLID PHASE FOR CAPTURE OF NUCLEIC ACIDS	:	

This decision is response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 18 July 2008.

On 18 July 2008, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

Applicant has included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 11/751,096 filed 21 May 2007) was listed in Box VI, item (1) of the PCT Request filed 18 July 2008 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $1,410 petition fee. As such, it is appropriate to grant applicant's petition at this time.

For the reasons discussed above, applicant's petition to restore the right of priority under PCT Rule 26*bis*.3 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
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

Enc.: NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

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

Judith Evans
Evans & Molinelli PLLC
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Fairfax Station, VA 22039

In re Application of	:	
Columbia University	:	DECISION ON
PCT No.: PCT/US2008/071278	:	
Int. Filing Date: 26 July 2006	:	PETITION UNDER
Priority Date: 27 July 2007	:	
Attorney's Docket No.: COL001033PCT	:	37 CFR 1.182
For: CYCLOPHILIN D-AMYLOID BETA INTERACTION POTENTIATES MITOCHONDRIAL DYSFUNCTION IN A TRANSGENIC MOUSE MODEL OF ALZHEIMER'S DISEASE	:	

This decision is in response to the "PETITION UNDER 37 CFR Section 1.182," filed 05 November 2008, requesting that the sequence listing filed 03 November 2008 be removed from the file wrapper for this application. The required petition fee of $400 has been charged to applicant's deposit account.

BACKGROUND

On 26 July 2008, applicant filed international application papers which were assigned application number PCT/US2008/071728. Applicant provided a check for $4977 for the payment of the fees associated with this application.

On 13 August 2008, the United States Receiving Office mailed applicant "NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE" and "NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES" (form PCT/RO/102) indicating that applicant still owed fees of $30 in the international application.

On 18 August 2008, applicant submitted $30.

On 03 November 2008, applicant electronically filed the sequence listing for another application in this application.

On 05 November 2008, the United States Receiving Office (RO/US) received the present petition to remove the sequence listing filed 03 November 2008 from the electronic file wrapper.

DISCUSSION

Under PCT Rule 13*ter*, any sequence listing provided after the international filing date is used for search purposes only. The filing of the improper sequence listing, on 03 November 2008, caused the correct sequence listing to be replaced on the search data base. In response to the current petition, the later filed sequence listing has been removed from the data base, and the first filed sequence listing has been restored to the data base. Further, the improper later filed sequence listing, and the paper filed on 03 November 2008, has been removed from the electronic file wrapper.

The petition to remove the sequence listing from the electronic file wrapper is granted.

CONCLUSION

Applicant's petition to remove the improper later filed sequence listing from the electronic file wrapper is **GRANTED**.

The required $400 petition fee has been **charged to deposit account # 50-4647**.

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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10 APR 2009

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AUSTIN, TX 78701

In re Application of AUSTIN GEOMODELING :
PCT Application No.: PCT/US2008/071948 :
Int. Filing Date: 01 August 2008 :
Priority Date Claimed: 01 August 2007 : DECISION
Attorney Docket No.: AGMI001WO :
For: METHOD AND SYSTEM FOR DYNAMIC, :
THREE-DIMENSIONAL GEOLOGICAL :
INTERPRETATION AND MODELING :

This is in response to applicant's "Petition for Acceptance of Color Drawings" filed 06 March 2009, which is being treated under 37 CFR 1.84. The requisite $130.00 petition fee will be charged to Deposit Account No. 50-3835 as authorized in the petition.

BACKGROUND

On 01 August 2008, 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 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the color drawings accompanying the petition be accepted.

37 CFR 1.84(a)(2) states,

> On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details

> in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:
>
> (i) The fee set forth in § 1.17(h);
>
> (ii) Three (3) sets of color drawings;
>
> (iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings: The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee. (Emphasis added.)

PCT Rule 11.13(a) states, "Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colorings."

PCT Applicant's Guide, ¶174 states in relevant part, "Color photographs are not accepted, nor are color drawings."

Because color drawings are not permitted in international applications, the proposed substitute drawings submitted with the present petition will not be entered.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.84 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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16 MAR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO, IL 60606

In re Application of	:	
COMMSCOPE, INC. OF	:	
NORTH CAROLINA	:	DECISION ON
PCT App. No.: PCT/US2008/073040	:	
Int'l Filing Date: 13 August 2008	:	PETITION
Priority Date: 30 August 2007	:	
Attorney Docket No.: 7836-256102407PCT	:	UNDER 37 CFR 1.182
For: ANTENNA WITH CELLULAR AND	:	
POINT-TO-POINT	:	
COMMUNICATIONS CAPABILITY	:	

This decision is in response to applicant's Request to Change the International Search Authority, filed with the United States Patent and Trademark Office on 22 August 2008. It has been treated as a Petition Under 37 CFR 1.182.

BACKGROUND

On 13 August 2008, applicant filed *inter alia* a request, a fee calculation sheet and a description.

On 22 August 2008, applicant filed the instant petition to change the international searching authority.

On 26 August 2008, the International Search Authority/ United States mailed Notification of Receipt of Search Copy (Form PCT/ISA/202) indicating that work by the ISA/US had commenced.

DISCUSSION

Work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

The $400 petition fee will be charged to deposit account no. 23-0920, 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 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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18 JUN 2009

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CLEVELAND OH 44114

In re Application of	:	
THE HONG KONG UNIVERSITY OF SCIENCE	:	
AND TECHNOLOGY	:	DECISION
PCT No.: PCT/US2008/073219	:	
International Filing Date: 14 August 2008	:	
Priority Date Claimed: 13 August 2008	:	
Attorney's Docket No.: TPIPP163WOA	:	
For: GENERAL DATA HIDING FRAMEWORK	:	
USING PARITY FOR MINIMAL SWITCHING	:	

This decision is in response to applicants' "PETITION TO WITHDRAW NOTIFICATION OF FORM PCT/RO/126 AND ISSUE FORM PCT/RO/114" filed 04 May 2009, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 14 August 2008, applicants filed international application papers including a Request, description, claims, and abstract. These papers were assigned international application number PCT/US2008/073219.

On 27 August 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) indicating the international filing date as 14 August 2008.

On 27 August 2008, 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 referred to on pages 3 and 4 of the description (Figures 1-24) 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 received that part (PCT Rule 20.5(c)).

On 27 August 2008, the RO/US also mailed NOTIFICATION REGARDING CERTAIN CORRECTION MADE *EX OFFICIO* (Form PCT/RO/146) indicating, *inter alia*, that the RO/US had corrected formal defects in sheet number 4 of the Request. Specifically, the number of sheets of drawings was changed from "21" to –0–.

On 27 October 2008, applicants filed drawing sheets 1-21.

On 19 February 2009, 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 October 2008, that the later submitted parts were included in the application and the international filing date was corrected to 27 October 2008. 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 17 March 2009, applicants filed a submission requesting that the drawings submitted on 27 October 2008 be disregarded.

On 01 April 2009, the RO/US mailed a second NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION (Form PCT/RO/126) indicating, *inter alia*, that following issuance of the earlier Form PCT/RO/126, applicants requested that the drawings be disregarded and that therefore the international filing date was 14 August 2008.

On 04 May 2009, applicant submitted the instant petition under 37 CFR 1.181.

DISCUSSION

The petition requests that applicants' submission filed 14 August 2008 be interpreted as an indication of applicants' intention to confirm the incorporation of the missing drawings by reference under PCT Rule 4.18 and that the Form PCT/RO/126 dated 19 February 2009 be withdrawn and a Form PCT/RO/114 be issued.

The petition urges that the submission filed 27 October 2008 be interpreted as a confirmation that the missing drawings were incorporated by reference under PCT Rule 4.18 rather than as an intention to complete the application because (1) the second box on page 2 was crossed on the Form PCT/RO/107 mailed 27 August 2008 and applicants' submission filed 27 October 2008 did not expressly state that the submission was intended to complete the application and (2) although not expressly confirmed by applicant, the submission filed 27 October 2008 was *intended* as a confirmation under PCT Rule 4.18.

As to (1), the fact that box 2 on page 2 of Form PCT/RO/107 mailed 27 August 2008 was crossed does not render any response as a confirmation of incorporation by reference under PCT Rule 4.18. Indeed, box 1 on page 2 of Form PCT/RO/107, which was also checked, states that the applicant shall furnish within two months of the mailing date of the Form PCT/RO/107 written notice confirming that the missing part was incorporated by reference under Rule 4.18. No such written notice was provided in the 27 October 2008 submission by applicants. Therefore, the drawings were properly treated as completing the application. See, e.g., box 2 of page 1 of Form PCT/RO/126 mailed 27 August 2008.

As to (2), nothing in the 27 October 2008 submission indicates that it was applicants' intent to incorporate the missing drawings by reference under Rule 4.18.

An e-mail communication from WIPO to petitioner attached to the petition states that "[n]othing would prevent RO/US at this stage to recognize that it had made an error when interpreting the agent's letter and that it should have been treated as a confirmation of incorporation by reference, to undo Form PCT/RO/126 and issue Form PCT/RO/114 instead". (Although the petition refers to the author of this e-mail as the Head of PCT Legal Division, she appears instead to be the Head of the PCT Information Services Section which is a part of the PCT Legal Division.) The RO/US is not in agreement with this statement. Indeed, it is not clear to the RO/US how it could "recognize that it had made an error" when there is no evidence to suggest that it made an error. Without written notice of confirmation, as required by Rule 20.6(a), it is not clear how the RO/US could consider the 27 October 2008 submission to be a confirmation of incorporation by reference. Additionally, in the instant situation, there are two earlier applications and the 27 October 2008 submission fails to identify which of the two applications the drawings are contained in.

The e-mail communication from WIPO also states that "[a]lternatively, PCT Rule 91.1(iv) would be applicable, but would require that the receiving Office consider[] the agent's reply as an obvious mistake (when the agent used the general term to 'correct' instead of expressly specifying that the letter was meant to confirm an incorporation be reference statement)." Again, the RO/US is not in agreement with this statement. Rule 91.1(c) states that rectification of a mistake shall be authorized "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." It is not clear to the RO/US how it could "consider the agent's reply as an obvious mistake" since it is not apparent that "something else was intended than what appears in the document". There is nothing in the 27 October 2008 submission that suggests that something else was intended than what appears in the document. Moreover, even assuming arguendo that it was obvious to the RO/US that something else was intended than what appears in the document, it is not clear that "nothing else could have been intended" other than written confirmation of incorporation by reference of the drawings. Again, there is nothing in the submission to suggest that the 27 October 2008 submission was written confirmation of an incorporation by reference. Additionally, there are two priority documents which applicant could confirm incorporation by reference to and neither of them are referred to in the 27 October 2008 submission.

CONCLUSION

The international filing date of the above-identified international application is 14 August 2008. The drawings filed 27 October 2008 have been disregarded.

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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Legal Examiner
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17 MAR 2010

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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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THOMAS E. WATSON
AMIN, TUROCY & CALVIN, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND OH 44114

In re Application of	:	
THE HONG KONG UNIVERSITY OF SCIENCE	:	
AND TECHNOLOGY	:	DECISION
PCT No.: PCT/US2008/073219	:	
International Filing Date: 14 August 2008	:	
Priority Date Claimed: 13 August 2008	:	
Attorney's Docket No.: TPIPP163WOA	:	
For: GENERAL DATA HIDING FRAMEWORK	:	
USING PARITY FOR MINIMAL SWITCHING	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.181 filed 14 August 2009. No petition fee is due.

BACKGROUND

On 14 August 2008, applicant filed international application papers including a Request, description, claims, and abstract. These papers were assigned international application number PCT/US2008/073219.

On 27 August 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) indicating the international filing date as 14 August 2008.

On 27 August 2008, 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 referred to on pages 3 and 4 of the description (Figures 1-24) 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 received that part (PCT Rule 20.5(c)).

On 27 August 2008, the RO/US also mailed NOTIFICATION REGARDING CERTAIN CORRECTION MADE *EX OFFICIO* (Form PCT/RO/146) indicating, *inter alia*, that the RO/US had corrected formal defects in sheet number 4 of the Request. Specifically, the number of sheets of drawings was changed from "21" to –0–.

On 27 October 2008, applicant filed drawing sheets 1-21.

On 19 February 2009, 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 October 2008, that the later submitted parts were included in the application and the international filing date was corrected to 27 October 2008. 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 17 March 2009, applicant filed a submission requesting that the drawings submitted on 27 October 2008 be disregarded.

On 01 April 2009, the RO/US mailed a second NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION (Form PCT/RO/126) indicating, *inter alia*, that following issuance of the earlier Form PCT/RO/126, applicant requested that the drawings be disregarded and that therefore the international filing date was 14 August 2008.

On 04 May 2009, applicant filed a submission which was properly treated as a petition under 37 CFR 1.181. The petition requested that applicant's submission filed 14 August 2008 be interpreted as an indication of applicant's intention to confirm the incorporation of the missing drawings by reference under PCT Rule 4.18 and that the Form PCT/RO/126 dated 19 February 2009 be withdrawn and a Form PCT/RO/114 be issued.

On 18 June 2009, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181.

On 14 August 2009, applicant submitted the instant renewed petition under 37 CFR 1.181.

DISCUSSION

The renewed petition urges that the reply filed 27 October 2008 was intended to "re-includ[e] the drawings as of the filing date of the application" and that it was never applicant's intent to "surrender the drawings".

The submission filed 27 October 2008 was insufficient for the reasons set forth in the decision mailed 18 June 2008. The renewed petition basically urges that applicant's failure to follow the proper procedure should be disregarded and applicant's purported "intent" should be granted. However, it is not clear how the RO/US could determine applicant's purported intent (i.e. a confirmation of incorporation by reference) with the 27 October 2008 submission without applicant's having followed the proper procedure (i.e., written notice of confirmation as required by Rule 20.6(a)). There is nothing in the 27 October 2008 submission which indicates that it was applicant's intent to incorporate the missing drawings by reference under Rule 4.18. The renewed petition urges that the statement in the 27 October 2008 submission that "In response to the Notice to Correct Defect mailed August 27, 2008, attached is a complete set of formal drawings correcting any and all deficiencies listed in the Invitation to Correct Defects" evinces applicant's intent to incorporate the drawings by reference under Rule 4.18. However, it is not at all clear how this statement could reasonably be construed to evince any such intent. Moreover, even assuming arguendo that the RO/US could disregard applicant's failure to follow the proper procedure, there are two earlier applications and the 27 October 2008 submission fails to identify which of the two applications the drawings are contained in.

CONCLUSION

The international filing date of the above-identified international application is 14 August 2008. The drawings filed 27 October 2008 have been disregarded.

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 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.

/Daniel Stemmer/

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WASHINGTON DC 20005-4051

In re Application of: NIKE, INTERNATIONAL
PCT No: PCT/US2008/073977
International Filing Date: 22 August 2008
Earlier Priority Date: 28 August 2007
Atty Docket No.: 005745.01263
For: IRON GOLF CLUBS AND GOLF HEADS HAVING WEIGHT CONTAINING....INSERT MEMBERS

DECISION

This decision is issued in response to the correspondence filed by applicant on 16 September 2008 requesting that the International Searching Authority be changed from the United States Patent Office (ISA/US) to the European Patent Searching Authority (ISA/EP).

BACKGROUND

On 22 August 2008, applicant filed materials to initiate the present international application, including a Request (Form PCT/RO/101). Box No. VII-1 of the Request identified the United States Patent and Trademark Office (USPTO) (ISA/US) as the desired International Searching Authority (ISA). Additionally, applicant submitted $1,800 as the search fee, the amount applicable to a search by the ISA/US.

On 05 September 2008, the Untied 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 record copy of the application was communicated to the International Bureau (IB) on 05 September 2008. It is noted that, as a matter of standard procedure, the search copy is forwarded to the selected ISA at the same time that the record copy is communicated to the IB. In addition, on 05 September 2008, the ISA/US mailed a "Notification Of Receipt Of Search Copy" (Form PCT/ISA/202) confirming that the ISA/US received the search copy on 05 September 2008.

On 16 September 2008, applicant filed the correspondence considered herein. The correspondence requests that the ISA be changed from the ISA/US to the ISA/EP.

Application No.: PCT/US08/73977

DISCUSSION

The PCT does not contain an express mechanism for changing the ISA identified in the Request (Form PCT/RO/101). Under certain limited circumstances, the RO/US will allow a change in the ISA pursuant to a petition under 37 CFR 1.182. However, such a petition must be granted before the RO/US forwards the search copy to the selected ISA, and it must include the $400 petition fee required for a petition under 37 CFR 1.182. In the present circumstances, where the search copy has already been forwarded to the ISA/US, and where applicant has not submitted the required petition fee, the requested change in the ISA from ISA/US to the ISA/EP is not appropriately granted. It is noted that the ISA issued the international search report and written opinion on 07 November 2008.

CONCLUSION

Applicant's request to change the ISA from ISA/US to ISA/EP is **DISMISSED** without prejudice.

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11 MAY 2010

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KELLIE S. BICKEL
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SEATTLE WA WASHINGTON 98111-1247

In re Application of:
CROWLEY DAVIS RESEARCH, INC. :
PCT No: PCT/US2008/075514 : DECISION ON PETITION
International Filing Date: 05 September 2008 : (37 CFR 1.182)
Priority Date: 07 September 2007 :
Atty Docket No.: 433328001WO :
For: SYSTEMS AND METHODS FOR :
CELL-CENTRIC SIMULATION AND :
CELL-BASED MODELS PRODUCED :

This decision is issued in response to the "Petition Under 37 CFR 1.78(a)(3)" filed 05 March 2010, treated herein under 37 CFR 1.182. Applicant has submitted the required petition fee.[1]

BACKGROUND

The present international application was filed on 05 September 2008. Box No. VI of the PCT Request (Form PCT/RO/101) included a claim of priority directed to U.S. non-provisional application 11/899,927, filed 07 September 2007, and the specification includes the statement that the application "claims priority to U.S. Patent Application No. 11/899,927."

On 29 May 2009, applicant filed the "Petition Under 37 CFR 1.78(a)(3)" considered herein. The petition seeks to amend the present application to include a revised benefit claim indicating that the present international application is a continuation-in-part of the priority application, U.S. non-provisional application 11/899,927.

DISCUSSION

The present international application was filed after 29 November 2000. Accordingly, the procedures set forth in the current version of 37 CFR 1.78 with respect to the addition of benefit claims under 35 U.S.C. 120 are applicable to the present application.

37 CFR 1.78(a)(3) provides a petition process for adding a claim of benefit to a prior-filed U.S. non-provisional application "after the time provided by paragraph (a)(2)(ii) of this section."

[1] Applicant submitted a petition fee of $1,410, the fee applicable to a petition under 37 CFR 1.78(a)(3). As discussed below, the present petition is properly treated under 37 CFR 1.182 and requires a petition fee of $400. Deposit Account No. 50-2586 will be credited with a refund of the $1,010 overpayment with respect to the applicable petition fee.

37 CFR 1.78(a)(2)(ii) defines the "time provided" for making the required reference as follows (emphasis added);

> **This reference must be submitted during the pendency of the later-filed application.** If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application.

The present international application is neither "an application filed under 35 U.S.C. 111(a)" nor a "nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371." Accordingly, the four and sixteen month deadlines set forth in 37 CFR 1.78(a)(2)(ii) do not apply to the present case. Rather, 37 CFR 1.78(a)(2)(ii) requires only that that the reference be added "during the pendency of" the present application.

The present petition requesting entry of the corrected benefit claim was filed by applicant on 05 March 2010, prior to the expiration of thirty months from the priority date, that is, during the pendency of the present international application. Accordingly, the benefit claim was not "presented after the time provided by paragraph (a)(2)(ii)" and the petition procedures set forth in 37 CFR 1.78(a)(3) are not applicable here. Instead, under the present circumstances, addition of the corrected benefit claim requires a grantable petition under 37 CFR 1.182. Applicant's present petition has therefore been considered under 37 CFR 1.182.

The present petition (including the accompanying proposed amendment and revised sheet of the PCT Request) includes a clear reference setting forth the benefit claim which applicant is seeking to add: "The present application is a continuation-in-part of U.S. Patent Application No. 11/899,927 filed September 7, 2007 ...." The petition was also accompanied by the required $400 petition fee. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to add the desired benefit claim to the present international application.

It is noted that the present decision applies only to the international application for purposes of the United States and does not affect the content of the international application or the priority claim therein with respect to any other PCT contracting state.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.182 to correct the benefit claim in the international application is **GRANTED** as to the United States. The present international application will be treated as including a benefit claim identifying the application as a continuation-in-part of U.S. Patent Application No. 11/899,927.

Deposit Account No. 50-2586 will be credited with a refund of $1,010 (the difference between the $1,410 petition fee provided by applicant and the $400 petition fee required).

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27 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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KAREN CANAAN
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MENLO PARK, CA 94025

In re Application of	:	
TRUSTEES OF THE LELAND STANFORD JR. UNIV.	:	DECISION ON PETITION
PCT No.: PCT/US08/77407	:	
Int. Filing Date: 23 September 2008	:	UNDER 37 CFR 1.182
Priority Date: 30 July 2007	:	
Attorney's Docket No.: 18BC-138084	:	
For: DERIVATION OF NEURAL STEM CELLS FROM EMBRYONIC STEM CELLS AND METHODS OF USE THEREOF	:	

This decision is response to applicant's "RESPONSE TO INVITATION TO CORRECT PRIORITY CLAIMS AND REQUEST FOR RESTORATION OF THE RIGHT OF PRIORITY" filed in the United States Patent and Trademark Office (USPTO) on 07 November 2008 referencing a request for restoration of priority filed with the original international application papers on 23 September 2008. The request of 07 November 2008 is being treated as a petition under 37 CFR1.182. As authorized the $400.00 petition fee will be charged to deposit account number 50-4561 to excuse the error in the original request.

BACKGROUND

On 23 September 2008, applicant electronically filed a PCT Request (Form PCT/RO/101) in the United States Receiving Office (RO/US) accompanied by a request for restoration of priority. The request identified the international application as PCT/US2007/067153.

On 03 October 2008, applicant was mailed an "Invitation to Correct Priority Claim" (Form PCT/RO/110) indicating that priority item one fell outside the one year period for a priority claim.

On 07 November 2008, applicant filed the petition considered herein.

DISCUSSION

A review of the request for restoration of priority filed 23 September 2008 finds that it was filed within two months of the expiration of the priority period, included payment of the restoration fee and a statement that the delay in filing the international application within the priority period was unintentional. However, the request identified the international application as PCT/US2007/067153 and stated that applicant "requests restoration of the right of priority for the above-referenced PCT application..." Therefore, a petition under 37 CFR 1.182 is required to

correct the international application number and allow the filing of 23 September 2008 to be directed to international application PCT/US08/77407. Applicant has authorized the charging of the required petition fee and confirmed that the other bibliographic information such as applicant, title and docket number are correct. As such, it is proper to grant applicant's petition under 37 CFR 1.182 and consider the request for restoration of priority filed 23 September 2008 as having been filed in PCT/US08/77407. A copy of form "Form PCT/RO/159" accompanies this decision.

CONCLUSION

For the reasons discussed above, applicant's 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.

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CC: International Bureau of WIPO
34, chemin des Colombettes
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Switzerland

16 MAR 2009

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In re Application of	:	
American Safety Razor Company	:	
PCT No.: PCT/US2008/079593	:	
Int. Filing Date: 10 October 2008	:	DECISION
Priority Date: 12 October 2007	:	
Attorney's Docket No.: 44210-523	:	
For: Shaving Razor With Modular Blade Pairs	:	

This is in response to applicants' petition under 37 CFR 1.181 filed on 11 February 2009.

BACKGROUND

Applicants filed this international application with the United States receiving Office via EFS-Web on 10 October 2008. On the same date, applicants also filed international application PCT/US2008/079596.

On 04 November 2008, applicants filed a "Request For Withdrawal Of The International Application" directed toward PCT/US2008/079593. A refund request was also filed.

On 04 November 2008, a refund request was also filed on PCT/US2008/079596.

On 17 December 2008, a Notification of Withdrawal (Form PCT/RO/136) related to PCT/US2008/079593 was transmitted to the International Bureau of WIPO.

On 23 December 2008, the International Bureau mailed a Communication (Form PCT/IB/345) indicating that "the withdrawal cannot be entered into the record since not all signatures of the applicants or the powers of attorney have been received by the International Bureau."

On 22 January 2009, a Decision was mailed in PCT/US2008/079596, dismissing the refund request, without prejudice.

DISCUSSION

Petitioner indicates that

> On October 10, 2008, Applicant filed a PCT application via EFS-WEB. During the process, the EFS-WEB system "kicked out" the application and reverted back to the beginning of the process. Applicant re-processed the application and it was assigned Serial No. PCT/US2008/079596. The initial, incomplete application was also filed and assigned PCT/US2008/079593, resulting in duplicate applications, without the Applicant's knowledge. The later-filed application was submitted prior to receiving confirmation of receipt of the earlier-filed

> application. The later-filed application was intended to be the original and only application. The duplicate application was generated due to a flaw in the EFS-WEB system, and was not caused by any mistake or intention of the Applicant.
>
> In response to the Decision mailed on January 26, 2009 [in PCT/US2008/079596], ... Applicant hereby petitions that PCT/US2008/079593 filed on October 10, 2008 be withdrawn and that the amount of the fees be refunded to Deposit Account No. 500471.

Petitioner therefore has certified that the later-filed application was submitted prior to receiving confirmation of receipt of the first-filed application. Petitioner has identified later-filed duplicate application PCT/US2008/079596, and indicated that it was intended to be the original (and only) application. In addition, petitioner has filed a notice withdrawing the instant application, PCT/US2008/079593, which is the application allegedly filed in error. However, as reflected by the Form PCT/IB/345 mailed on 23 December 2008, petitioner has not filed powers of attorney signed by all of the applicants. Though the "Request For Withdrawal..." filed on 04 November 2008 alludes to an enclosed "General power of attorney," no such document is present in the application file. As such, the notice of withdrawal does not comply with PCT Rule 90*bis*.5. Petitioner is required to perfect the notice of withdrawal (by establishing compliance with Rule 90*bis*.5) before the instant petition may be granted.

DECISION

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

Any request for reconsideration should be entitled "Renewed Petition Under 37 CFR 1.181."

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
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44210-523

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER THE PATENT COOPERATION TREATY

In re International Application of: AMERICAN SAFETY RAZOR COMPANY

International Application Number: PCT/US2008/79593

International Filing Date: 10 October 2008

Title: **SHAVING RAZOR WITH MODULAR BLADE PAIRS**

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

ATTN: Mr. George Dombroske
Office of PCT Legal Administration

RENEWED PETITION
UNDER 37 CFR 1.181

Dear Mr. Dombroske;

In response to the Decision mailed on March 16, 2009, a copy of which is attached hereto, Applicant hereby requests reconsideration, and renews their petition that **PCT/US2008/079593** filed on October 10, 2008 be withdrawn and that the amount of the fees be refunded to Deposit Account No. 500417. Attached are copies of Power of Attorney forms executed by an authorized Officer of the Company and inventors Frank Prochaska and Jeffrey W. Wonderly, as required by page 2 of the Decision.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Michael A. Messina

Attorney for Applicant
Registration No. 33,424

Date: 4/16/09

WDC99 1711044-1 044210.0523

16 MAR 2009

United States Patent and Trademark Office

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RECEIVED
MAR 18 2009
McDermott Will & Emery LLP
DC Office

In re Application of
American Safety Razor Company
PCT No.: PCT/US2008/079593
Int. Filing Date: 10 October 2008
Priority Date: 12 October 2007
Attorney's Docket No.: 44210-523
For: Shaving Razor With Modular Blade Pairs

DECISION

This is in response to applicants' petition under 37 CFR 1.181 filed on 11 February 2009.

BACKGROUND

Applicants filed this international application with the United States receiving Office via EFS-Web on 10 October 2008. On the same date, applicants also filed international application PCT/US2008/079596.

On 04 November 2008, applicants filed a "Request For Withdrawal Of The International Application" directed toward PCT/US2008/079593. A refund request was also filed.

On 04 November 2008, a refund request was also filed on PCT/US2008/079596.

On 17 December 2008, a Notification of Withdrawal (Form PCT/RO/136) related to PCT/US2008/079593 was transmitted to the International Bureau of WIPO.

On 23 December 2008, the International Bureau mailed a Communication (Form PCT/IB/345) indicating that "the withdrawal cannot be entered into the record since not all signatures of the applicants or the powers of attorney have been received by the International Bureau."

On 22 January 2009, a Decision was mailed in PCT/US2008/079596, dismissing the refund request, without prejudice.

DISCUSSION

Petitioner indicates that

> On October 10, 2008, Applicant filed a PCT application via EFS-WEB. During the process, the EFS-WEB system "kicked out" the application and reverted back to the beginning of the process. Applicant re-processed the application and it was assigned Serial No. PCT/US2008/079596. The initial, incomplete application was also filed and assigned PCT/US2008/079593, resulting in duplicate applications, without the Applicant's knowledge. The later-filed application was submitted prior to receiving confirmation of receipt of the earlier-filed

application. The later-filed application was intended to be the original and only application. The duplicate application was generated due to a flaw in the EFS-WEB system, and was not caused by any mistake or intention of the Applicant.

In response to the Decision mailed on January 26, 2009 [in PCT/US2008/079596], ... Applicant hereby petitions that PCT/US2008/079593 filed on October 10, 2008 be withdrawn and that the amount of the fees be refunded to Deposit Account No. 500471.

Petitioner therefore has certified that the later-filed application was submitted prior to receiving confirmation of receipt of the first-filed application. Petitioner has identified later-filed duplicate application PCT/US2008/079596, and indicated that it was intended to be the original (and only) application. In addition, petitioner has filed a notice withdrawing the instant application, PCT/US2008/079593, which is the application allegedly filed in error. However, as reflected by the Form PCT/IB/345 mailed on 23 December 2008, petitioner has not filed powers of attorney signed by all of the applicants. Though the "Request For Withdrawal..." filed on 04 November 2008 alludes to an enclosed "General power of attorney," no such document is present in the application file. As such, the notice of withdrawal does not comply with PCT Rule 90*bis*.5. Petitioner is required to perfect the notice of withdrawal (by establishing compliance with Rule 90*bis*.5) before the instant petition may be granted.

DECISION

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

Any request for reconsideration should be entitled "Renewed Petition Under 37 CFR 1.181."

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
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22 JAN 2009

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
American Safety Razor Company	:	
PCT No.: PCT/US2008/079596	:	
Int. Filing Date: 10 October 2008	:	DECISION
Priority Date: 12 October 2007	:	
Attorney's Docket No.: 44210-523	:	
For: Shaving Razor With Modular Blade Pairs	:	

This is in response to applicants' refund request filed on 04 November 2008.

BACKGROUND

Applicants filed this international application with the United States receiving Office via EFS-Web on 10 October 2008. On the same date, applicants also filed international application PCT/US2008/079593.

On 04 November 2008, applicants filed a "Request For Withdrawal Of The International Application" directed toward PCT/US2008/079593. On 17 December 2008, a Notification of Withdrawal (Form PCT/RO/136) related to PCT/US2008/079593 was transmitted to the International Bureau.

DISCUSSION

As a preliminary matter, it is noted that the instant "Request For A Refund" was not properly signed by applicants or by a practitioner; as such, it would not be appropriate to grant the requested relief on that basis. It is noted that the "Request For Withdrawal" of PCT/US2008/079593 was signed, but the refund request in that application also was unsigned. However, the following observations are provided for applicants' convenience.

The "Request For A Refund" suggests that applicants were "charged twice for the same application" and that "we were assigned two different application numbers PCT/US2008.79596 and PCT/US2008/79593." Review of the record reveals that the instant application was filed approximately eight minutes after PCT/US2008/079593. Applicants do not indicate whether this later-filed application was submitted prior to receiving confirmation of receipt of the earlier-filed application, and do not indicate whether this application was intended to be the original application. Applicants should clarify these points, as well as any reason why the earlier-filed application was withdrawn while the instant application was not. Any such submission should be properly signed, and should be brought in the form of a formal petition under 37 CFR 1.181.

DECISION

Applicants' request 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/
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UNITED STATES PATENT AND TRADEMARK OFFICE

30 MAR 2009

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David A. Levine
Levine Bagade Han LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

In re Application of :
SWOB, Yasser :
PCT No.: PCT/US2008/080562 :
Int. Filing Date: 20 October 2008 :
Priority Date: 20 October 2007 : WITHDRAWAL
Atty. Docket No.: SWBYZ00300WO :
For: Systems And Method For Patient :
Cardiovascular And Respiratory :
Management :

This is in response to "Request For Rectification Concerning Duplicate Serial Number, and Request for Refund" filed 16 December 2008.

BACKGROUND

On 20 October 2008, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2008/080562. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2008/080564.

On 31 October 2008, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102), Invitation To Correct Defects in the International Application (RO/106) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2008/080564

On 07 November 2008, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102), Invitation to Correct Defects in the International Application (RO/106) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2008/080562

On 16 December 2008, applicant filed the present petition requesting withdrawal of international application PCT/US2008/080562 and refund of fees.

DISCUSSION

The petition states that applicant filed the duplicate submission because applicant was unable to proceed through the payment screen or receive an official Electronic Acknowledgement due to an error in the EFS system. Furthermore, petitioner has stated that after several unsuccessful attempts of accessing the newly filed application through the EFS-Web submission on Private Pair; the later-filed application was submitted again the same day by EFS-Web to ensure a filing date of 20 October 2008. Accordingly, withdrawal of the duplicate application and a refund of the submitted fees are permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants." In the present case, there's no record of Power of Attorney signed by all applicants. Therefore, pursuant to PCT Rule 90bis.5 (a), the present request to withdraw international application PCT/US2008/080562 cannot be approved at the present time.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 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. Extension of time are available under 37 CFR 1.136 (a).

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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Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

16 DEC 2009

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In re Application of :
SWOB, Yasser :
PCT No.: PCT/US2008/080562 :
Int. Filing Date: 20 October 2008 :
Priority Date: 20 October 2007 : DECISION
Atty. Docket No.: SWBYZ00300WO :
For: Systems And Method For Patient Cardiovascular And Respiratory Management :

This is in response to "Request for Refund" filed 22 May 2009.

BACKGROUND

On 20 October 2008, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2008/080562. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2008/080564.

On 31 October 2008, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102), Invitation To Correct Defects in the International Application (RO/106) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2008/080564

On 07 November 2008, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102), Invitation to Correct Defects in the International Application (RO/106) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2008/080562

On 16 December 2008, applicant filed a petition requesting withdrawal of international application PCT/US2008/080562 and refund of fees.

On 30 March 2009, this office mailed a decision dismissing the 16 December 2008 petition.

On 22 May 2009, applicant filed the present renewed Request for Refund.

DISCUSSION

The petition states that applicant filed the duplicate submission because applicant was unable to proceed through the payment screen or receive an official Electronic Acknowledgement due to an error in the EFS system. Furthermore, petitioner has stated that after several unsuccessful attempts of accessing the newly filed application through the EFS-Web submission on Private Pair; the later-filed application was submitted again the same day by EFS-Web to ensure a filing date of 20 October 2008. Accordingly, withdrawal of the duplicate application and a refund of the submitted fees are permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants." In the present case, applicant has complied with the requirements set forth under Rule 90bis.1 and 90bis.5 by providing a Power of Attorney signed by the applicant of record. Accordingly, the notice is effective to withdraw the international application. Additionally, a further review indicates that the record copy was sent to the International Bureau before the application was withdrawn. Accordingly under PCT Rule 15.6, applicant is not entitled to a refund of the international fee, the transmittal fee is not refundable pursuant to 37 CFR 1.446(d) and the search copy is only refundable prior to transmittal to the International Searching Authority. In the present case, the search copy was transmitted to the International Searching Authority (ISA/US) on 07 November 2008. Therefore, applicant's request for a full refund is REFUSED.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 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. Extension of time are available under 37 CFR 1.136 (a).

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.

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Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

16 MAR 2009

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Steven J. Grossman
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, NH 03101

In re Application of: T. F. H. PUBLICATIONS, INC.	:	DECISION
PCT Application No.: PCT/US2008/082214	:	
Int. Filing Date: 03 November 2008	:	
Priority Date: 01 November 2007	:	UNDER
Atty Docket No.: TFH142PCT	:	
For: CHEW TOY WITH FABRIC OR FABRIC LAYERING	:	37 CFR 1.181

This decision is in response to applicant's "COMMUNICATION REGARDING THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY - US " filed 12 January 2009, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 29 December 2008, the ISA/US issued Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) indicating thereon "STEVEN J. GROSSMANGROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC55 SOUTH COMMERCIAL STREETMANCHESTER, NH 03101" as the applicant.

On 12 January 2009, applicant filed the present petition requesting the ISA/US to reissue the forms identified above with the correct name of the applicant. The petition was accompanied by, *inter alia*, a copy of the PCT Request showing "T. F. H. PUBLICATIONS, INC." as the correct name of the applicant.

DISCUSSION

A review of the file reveals that the PCT Request contains "T. F. H. PUBLICATIONS, INC." as the correct name of the applicant. Consequently, the forms PCT/ISA/220, PCT/ISA/210, and PCT/ISA/237 should have contained "T. F. H. PUBLICATIONS, INC." as the correct name of the applicant.

CONCLUSION

For the reasons given above, the applicant's petition under 37 CFR 1.181 is **GRANTED**.

Corrected Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) are 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 Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237)

09 FEB 2009

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Victor K. Lee
c/o CELERA CORPORATION
1401 Harbor Bay Parkway
Alameda, CA 94502

In re Application of
CELERA CORPORATION
PCT No.: PCT/US2008/082455
Int. Filing Date: 05 November 2008
Priority Date: 05 November 2007
Attorney Docket No.: CD000020PCT
For: GENETIC POLYMORPHISMS ASSOCIATED WITH LIVER FIBROSIS, METHODS OF DETECTION AND USES THEREOF

DECISION

This decision is in response to the papers filed 15 December 2008 which are treated as a petition under 37 CFR 1.182.

BACKGROUND

On 05 November 2008, applicants filed the subject international application using the USPTO EFS-Web system. Applicant included a sequence listing filed under PCT Rule 13*ter*.1.

On 25 November 2008, a Notification Concerning Prescribed Fees (Form PCT/RO/102) was mailed indicating that $18,147.00 in fees were required.

On 15 December 2008, applicants filed the subject petition to request a refund of fees paid due to the submission of the sequence listing pursuant to PCT Rule 13*ter*.1.

DISCUSSION

Applicants request a refund of fees paid in the international application pursuant to 37 CFR 1.181. Applicant explains that the sequence listed was erroneously filed pursuant to PCT Rule 13*ter*.1 in the original submission. The sequence listing should have been filed pursuant to PCT AI § 801.

This request is treated as a petition under 37 CFR 1.182 to change the original submission as the sequence listing submitted under PCT AI § 801, not 37 CFR 1.181. The $400.00 petition fee has been charged to Deposit Account No. 50-2781 as authorized.

PCT/US2008/082455

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The sequence listing has been changed as a submission under PCT AI § 801.

The appropriate fees have been credited to Counsel's Deposit Account No. 50-2781 as authorized.

This application is being forwarded to the Office of PCT Operations for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

11 MAY 2009

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In re Application of	:	
SUSTAINABLE GREEN TECHNOLOGIES, INC.	:	
PCT App. No.: PCT/US2008/082910	:	
Int'l Filing Date: 07 November 2008	:	DECISION ON
Priority Date: 07 November 2007	:	
Attorney Docket No.: 026621-000210PC	:	PETITION
For: MICROORGANISMS AND METHODS FOR INCREASED HYDROGEN PRODUCTION USING DIVERSE CARBONACEOUS FEEDSTOCK	:	UNDER 37 CFR 1.182

This decision is in response to applicant's Request to Change the International Search Authority, filed with the United States Patent and Trademark Office on 07 January 2009. It has been treated as a Petition Under 37 CFR 1.182.

BACKGROUND

On 07 November 2008, applicant filed *inter alia* a request, a fee calculation sheet and a description.

On 08 December 2008, the International Search Authority/ United States mailed Notification of Receipt of Search Copy (Form PCT/ISA/202) indicating that work by the ISA/US had commenced.

On 07 January 2009, applicant filed the instant petition to change the international searching authority.

DISCUSSION

Work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

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/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
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0 3 FEB 2009

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DANIEL J. SANTOS
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
2 RAVINIA DRIVE, SUITE 700
ATLANTA GA GEORGIA 30346

In re Application of:	:	
LSI CORPORATION	:	DECISION
PCT No.: PCT/US2008/083324	:	
International Filing Date: 13 November 2008	:	
Priority Date Claimed: None	:	
Atty Docket No.: 12020.0059P1	:	
For: ACTIVE-ACTIVE FAILOVER FOR A DIRECT-ATTACHED STORAGE SYSTEM	:	

This decision is issued in response to applicant's "Request For Withdrawal Of PCT/US2008/083324" filed 06 January 2009. No petition fee is required.

BACKGROUND

On 13 November 2008, applicants filed materials to initiate the present international application including, among other materials, a Request (Form PCT/RO/101) and required fees. The materials were filed using the EFS-Web electronic filing system.

On 28 November 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 13 November 2008.

On 06 January 2009, applicant filed the "Request For Withdrawal Of PCT/US2008/083324" considered herein.

DISCUSSION

The Request For Withdrawal Of PCT/US2008/083324 filed 06 January 2009 requests withdrawal of the present international application, asserting that such application was erroneously duplicated during the electronic filing process.

Pursuant to PCT Rule 90bis.1, an applicant may withdraw an international application prior to the expiration of 30 months from the priority date. However, in order to be effective, a request to withdraw an international application must be signed by all the applicants, their appointed agents or their appointed common representative. The present request to withdraw was signed by Daniel J. Santos, the agent who signed the PCT Request, but Mr. Santos has not submitted Power of Attorney forms from either the corporate applicant, LSI CORPORATION,

or the individual applicant/inventor, Luca BERT, appointing him as their agent for the present application. Accordingly, on the present record, Mr. Santos is not the "appointed agent" herein.

An acceptable Power of Attorney(s) executed on behalf of both of the applicants herein appointing Mr. Santos as their agent of record 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 both of the applicants appointing Mr. Santos 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 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 2009

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GERARD A. MESSINA
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ONE BROADWAY
NEW YORK NY NEW YORK 10004-1050

In re Application of :
ROBERT BOSCH GmbH :
PCT App. No.: PCT/US08/84913 :
Int. Filing Date: 26 November 2008 : DECISION on
Priority Date: 18 December 2007 : REQUEST FOR
Attorney Docket No.:11403/101A : REFUND
For: MEMS RESONATOR ARRAY STRUCTURE :
AND METHOD OF OPERATING AND USING SAME :

This is in response to applicant's "Request for Change in International Searching Authority" filed in the United States Receiving Office (RO/US) on 29 January 2009. For the reasons set forth below, the request for refund is **DISMISSED**.

On 26 November 2008, applicant filed international application papers including a Request with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date. On 29 January 2009, applicant filed the present request for a refund.

The Request form Box VII indicated the International Searching Authority/European Patent Office (ISA/EPO). The fee for the EPO search on 26 November 2008 was $2665. However, applicant indicated on the Fee Calculation Sheet, International Searching Authority/US and the $1800 fee associated with that search[1]. The $1800 search fee was charged to applicant's credit card. A review of the RO/US finance record indicates that applicant paid $1800 for international search fee for ISA/US search. However, the appropriate fees should have been $2665. Thus, applicant' request to refund the international search fee of $100 is dismissed and will not be refunded to applicant's deposit account. Rather the difference in the search fees ($865) will be charged to applicant.

Per applicant's authorization, an additional $865 will be charged to applicant's deposit account due to the ISA/EPO search fee. It is noted that on 10 February 2009, the European Patent Office notified applicant of the receipt of the search copy on 28 January 2009.

Cynthia M. Kratz
Attorney Advisor
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Telephone: 571-272-3286

[1]The International Searching Authority/United States mailed the International Search Report and Written Opinion to applicant on 13 February 2009.

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0 8 MAY 2009

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Patrick A. Walker
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Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19801

In re Application of :
KUBOTA RESEARCH, INC. :
PCT No.: PCT/US2008/085846 :
Int. Filing Date: 08 December 2008 : DECISION ON PETITION
Priority Date: 05 December 2007 :
Attorney Docket No.: 114291-00005 :
For: COMPOSITE ARTICLE AND METHOD :
OF MANUFACTURE

This decision is issued in response to applicant's Request to withdraw the above-referenced PCT application filed 30 April 2009. Additionally, this decision is in response to applicant's "Petition under 37 CFR 1.10(e) and 1.183" filed 10 December 2008.

BACKGROUND

The United States Receiving Office accorded an international filing date of 08 December 2008 to the above-identified international application.

On 10 December 2008, applicant filed "Petition under 37 CFR 1.10(e) and 1.183."

On 06 April 2009, the United Receiving Office mailed the following: Notification of Concerning Payment of Prescribed Fees (PCT/RO/102); 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 08 DEC 2008."

On 30 April 2009, applicant filed a request to withdraw the above-identified application and a Request for Refund.

DISCUSSION

Under PCT Rule 90bis.1, the withdrawal is effective upon receipt of the notice addressed by the applicant to the receiving Office. Accordingly, international application

PCT/US2008/85846 was withdrawn on 30 April 2009, the date on which the letter requesting withdrawal of the application and a refund of fees was received by the USPTO.

Additionally, petitioner has filed a request for refund of all application 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 Authority, therefore, applicant is not entitled a refund of the search fee. The $300.00 transmittal fee is not refundable (see 37 CFR 1.446). Accordingly, applicant's request for refund is dismissed without prejudice.

Since applicant's request to the withdraw the above-identified application has been accepted, the petitions under 37 CFR 1.10(e) and 37 CFR 1.183 are dismissed as moot.

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.

Applicant's petitions under 37 CFR 1.10(e) and 37 CFR 1.183 are **DISMISSED** as moot.

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 30 April 2009 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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04 MAY 2009

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MORRISON & FOERSTER LLP
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In re Application of	:	
Synthetic Genomics, Inc.	:	
PCT No.: PCT/US2008/86296	:	
Int. Filing Date: 10 December 2008	:	DECISION
Priority Date: 10 December 2007	:	
Attorney's Docket No.: 616872000640	:	
For: Methylbutanol As An Advanced Biofuel	:	

This is in response to applicants' "Petition To Request Correction Of Clerical Error" filed on 16 April 2009.

BACKGROUND

Applicants filed this international application with the United States receiving Office via the EFS-Web portal on 10 December 2008. The U.S. International Searching Authority (ISA/US) was chosen in Box No. VII of the PCT Request (Form PCT/RO/101).

On 23 December 2008, an Invitation To Furnish Nucleotide And/Or Amino Acid Sequence Listing And/Or Tables Related Thereto Complying With Standard Or Technical Requirements (Form PCT/ISA/225) was mailed, inviting applicants to furnish a nucleotide and/or amino acid sequence listing in written form complying with the standard provided for in Annex C of the Administrative Instructions, accompanied by a statement to the effect that the sequence listing does not go beyond the disclosure in the international application as filed. Applicants were also invited to furnish a nucleotide and/or amino acid sequence listing and/or tables related thereto in computer readable form complying with the standard and/or technical requirements provided for in Annex C and/or Annex C-*bis* of the Administrative Instructions, accompanied by a statement that the information recorded in computer readable form is identical to the written sequence listing and/or tables related thereto. The Invitation set a ONE MONTH period for reply.

On 23 January 2009, applicants filed a "Communication..." accompanied by a sequence listing in .pdf format.

On 16 March 2009, an Invitation To Pay Additional Fees And, Where Applicable, Protest Fee (Form PCT/ISA/206) was mailed. Said Invitation indicated, *inter alia*, that certain claims "are unsearchable because they contain unspecified SEQ ID Nos. " The Invitation also indicated that the sequence listing filed on 23 January 2009 "contained defects."

DISCUSSION

Petitioner states (in part) that

> It was brought to the Applicant's attention by speaking with Ms. Erin Thompson of the PCT helpdesk that the sequence listing was erroneously submitted in .pdf format rather than .txt format. It is clear that Applicants intended to have the sequence listing added into the file. If it were not for this clerical error, the sequence would be a part of the file. Therefore, Applicant respectfully petitions correction of the clerical error and allows the .txt file to be incorporated into the file. The .txt file is being submitted simultaneously with this petition for review and utilization in the prosecution of the present application.

Petitioner is advised, respectfully, that though "Applicants intended to have the sequence listing added into the file,"the submission of the .pdf sequence listing on 23 January 2009 did not result in compliance with the requirements set by the Form PCT/ISA/225 mailed on 23 December 2008 because that sequence listing was not in computer readable form. As a result, the sequence listing filed on 23 January 2009 will not be used for purposes of the international search, per PCT Rule 13ter.1(d). It is also noted that the sequence listing will not regarded as part of the international application, per PCT Rule 13ter.1(e).

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
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

cc: International Bureau of WIPO

19 FEB 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J. TORRES-OYOLA EUGENIO
221 PLAZA, SUITE 403
221 PONCE DE LEON AVE.
SAN JUAN PUERTO RICO 00917

In re Application of	:	
SANTINI, LUIS A.	:	DECISION
PCT No.: PCT/US2008/088109	:	
Date of Receipt: 23 December 2008	:	
Priority Date Claimed: 29 October 2007	:	
Attorney's Docket No.: LUIS SANTINI	:	
For: VERTICAL DOMINOES	:	

This decision is response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 23 December 2008.

On 23 December 2008, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

Applicant has included a statement that the delay in filing the international application was unintentional. In addition, the subject priority claim (application number 11/926,810 filed 29 October 2007) was listed in Box VI-1 of the PCT Request filed 23 December 2008 which is within the two month period required by PCT Rule 26*bis*.3 for restoration of right of priority. Lastly, applicant has paid the required $1,410 petition fee. As such, it is appropriate to grant applicant's petition at this time.

For the reasons discussed above, applicant's petition to restore the right of priority under PCT Rule 26*bis*.3 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
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

Enc.: NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

UNITED STATES PATENT AND TRADEMARK OFFICE

30 MAR 2009

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

David J. Dykeman
Greenberg Traurig, LLP
One International Place
Boston, MA 02110

In re Application of :
Illuminoss Medical, Inc. *et al* :
PCT No.: PCT/US2008/088634 :
Int. Filing Date: 31 December 2008 :
Priority Date: 04 January 2008 : WITHDRAWAL
Atty. Docket No.: 101667-011702/PCT :
For: Apparatus And Methods For :
Separating Internal Bone Fixation :
Device From Introducer :

This is in response to the Request for Withdrawal of International Application and Request for Refund filed 17 February 2009.

BACKGROUND

On 31 December 2007, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2008/088634. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2008/088638.

On 13 January 2009, the United States Receiving Office (RO/US) mailed a Notification Concerning Payment of Prescribed Fees (RO/102) and Notification of the International Application Number and of the International Filing Date (RO/105) for international application PCT/US08/88638

On 23 January 2009, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105),Notification Concerning Payment of Prescribed Fees (RO/102), Invitation To Correct Defects in the International Application (RO/106) for international applications PCT/US2008/88634.

On 20 February 2008, applicant filed the present petition requesting withdrawal of international application PCT/US2008/088634 and refund of fees.

DISCUSSION

The petition states that applicant filed the duplicate submission because it was unclear whether the first submission was received by the EFS-Web system. Petitioner has certified that the later-filed application was submitted prior to receiving confirmation of receipt of the first-filed application. Furthermore, petitioner states the intent of maintaining the later-filed application. Accordingly, withdrawal of the duplicate application and a refund of the submitted fees are permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants." In the present case, the request to withdraw international application PCT/US2007/088634 has been signed by all applicants of record. Therefore, pursuant to PCT Rule 90bis.5 (a), the present request to withdraw international application PCT/US2008/088634 is approved. Additionally, a further review indicates that the record copy was sent to the International Bureau before the application was withdrawn. Accordingly, the USPTO is not in a position to refund the international fee. The transmittal fee and search fee will be refunded.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is hereby **GRANTED** in part.

Stacy Duncan
Paralegal Specialist
Office of PCT Legal Administration
Tel: (571) 272-4989
Fax: (571) 273-0459

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

05 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NICHOLAS J. TUCCILLO
MCCORMICK, PAULDING & HUBER LLP
CITYPLACE II, 185 ASYLUM STREET
HARTFORD, CT 06103

In re Application of	:	
TANG	:	
PCT No.: PCT/US09/00579	:	DECISION ON PETITION
Int. Filing Date: 28 January 2009	:	
Priority Date: 28 January 2008	:	UNDER 37 CFR 1.10(c)
Attorney Docket No.: 5386-0001-1WO	:	
For: TAPE-BASED SKIN TREATMENT - A SAFE AND QUICK ALTERNATIVE TO SKIN RENEWAL	:	

This decision is in response to applicant's "RESPONSE TO THE INVITATION TO CORRECT PRIORITY CLAIM" filed in the United States Patent and Trademark Office (USPTO) on 26 March 2009 to accord an international filing date of 28 January 2009. The response is being treated as a petition 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 28 January 2008.

The United States Receiving Office (US/RO) accorded the application an international filing date of 29 January 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 19 February 2009.

On26 March 2009, applicant filed the present petition urging that applicant had filed the international application with the U.S. Postal Service on 28 January 2009 as an "Express Mail" mailing but that the USPTO incorrectly entered an international filing date of 29 January 2009.

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

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

The Form PCT/RO/105 and Form PCT/RO/110 mailed 19 February 2009 are hereby **VACATED**.

The application is being returned to the RO/US for processing in accordance with this decision, that is, for: (1) according the international application an international filing date of 28 January 2009 and (2) forwarding notice of the 28 January 2009 international filing date to the International Bureau. An annotated copy of page one of the PCT Request indicating an international filing date of 28 January 2009 accompanies 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

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 09/00579

International Filing Date 28 January 2009

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* 5386-0001-1WO

Box No. I TITLE OF INVENTION

TAPE-BASED SKIN TREATMENT - A SAFE AND QUICK ALTERNATIVE TO SKIN RENEWAL

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.)*

TANG, YuYing
56 Huntington Road
Hadley, Massachusetts 01035
United States of America

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.)*

TUCCILLO, Nicholas J.
McCORMICK, PAULDING & HUBER LLP
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United States of America

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Facsimile No. 413-733-4543

Agent's registration No. with the Office 44322

☐ **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

15 APR 2009

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

Todd A. Norton
DRINKER BIDDLE & REATH, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103

In re Application of
BRAND AFFINITY TECHNOLOGIES, INC.
PCT No.: PCT/US09/00833
Int. Filing Date: 09 February 2009
Priority Date: 07 February 2008
Agent's File Reference: 203234-4-0-WO
For: SYSTEM AND METHOD OF ASSESSING QUALITATIVE AND QUANTITATIVE USE OF A BRAND

DECISION UNDER
37 CFR 1.10(c)

This decision is in response to applicants' 18 March 2009 petition under 37 CFR 1.10(c) requesting that the filing date of International Application No. PCT/US09/00833 be corrected from 10 February 2009 to 09 February 2009. 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 02 March 2009), International Application No. PCT/US09/00833 was accorded a filing date of 10 February 2009 by the United States Receiving Office (RO/US).

On 18 March 2009, the present petition was filed requesting that International Application No. PCT/US09/00833 be accorded a filing date of 09 February 2009 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. EV446639776US 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. EV446639776US filed with the present petition indicates that the "Date In" is 09 February 2009. 37 CFR 1.10(c)(3). Additionally, the "Track & Confirm" database of the USPS indicates that the date of deposit is 09 February 2009. Accordingly, correction of the international filing date to 09 February 2009 is appropriate.

CONCLUSION

For the above reasons, the request to correct the filing date is **GRANTED**. The Form PCT/RO/105 mailed 02 March 2009 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 09 February 2009 international filing date are being sent to the International Bureau.

Rafael Bacares
PCT Legal Examiner
Office of PCT Legal Administration

JSF/RB:jf

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

(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.

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 09/00833

International Filing Date - 9 FEB 2009

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)* 203234-4-0-WO

Box No. I TITLE OF INVENTION

SYSTEM AND METHOD OF ASSESSING QUALITATIVE AND QUANTITATIVE USE OF A BRAND

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.)*

BRAND AFFINITY TECHNOLOGIES, INC.
101 Academy Road
Suite 110
Irvine, California 92617
United States of America

Telephone No.

Facsimile No.

Applicant's registration No. with the Office

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. (*See also the Notes to Boxes Nos. II and III.*)

E-mail address

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.)*

McWILLIAMS, Thomas J.
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United States of America

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Agent's registration No. with the Office 44930

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. (*See also the Notes to Boxes Nos. II and III.*)

E-mail address

☐ **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.

16 JUL 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYRNA SCHELLING
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of	:	
VITAMIN D, INC.	:	DECISION
PCT No.: PCT/US2009/00839	:	
International Filing Date: 09 February 2009	:	
Priority Date Claimed: None	:	
Attorney's Docket No.: PA4817PCT	:	
For: SYSTEMS AND METHODS FOR VIDEO MONITORING	:	

This decision is in response to applicants' "PETITION FOR REINSTATEMENT OF DRAWINGS PURSUANT TO 37 CFR 1.181" filed 03 June 2009. No petition fee is due.

BACKGROUND

On 09 February 2009, applicants filed international application papers including a Request, description, claims, abstract, and drawings. These papers were assigned international application number PCT/US2009/00839.

On 02 March 2009, 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 09 February 2009.

On 02 March 2009, 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 Figures 5 and 6 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 received that part (PCT Rule 20.5(c)).

On 02 March 2009, 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 sheets of

drawings was changed from "6" to –4–.

On 17 April 2009, applicants filed Figures 5 and 6.

On 22 May 2009, 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 17 April 2009, that the later submitted parts were included in the application and the international filing date was corrected to 17 April 2009. 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 22 May 2009, the RO/US mailed a NOTIFICATION ON DECISION OF CONFIRMATION OF INCORPORATION BY REFERENCE OF ELEMENT OR PART (Form PCT/RO/114) indicating, *inter alia*, that the requirements of PCT Rules 4.18 and 20.6(a) had not been complied with and that the drawings filed 17 April 2009 were not considered to have been contained in the purported international application on 09 February 2009. Specifically, it was noted that the earlier application was not indicated as a priority claim in the first filing of the international application.

On 22 May 2009, 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 17 April 2009.

On 03 June 2009, applicant submitted the instant petition under 37 CFR 1.181.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 09 February 2009, applicant filed Figures 5 and 6. 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 09 February 2009 and itemizes 6 sheets and 6 Figures of drawings and identifies the above-captioned applicant, title, and docket number. Further, practitioner states that the copy of the drawings filed 03 June 2009 are a true copy of the application papers originally filed 09 February 2009. Therefore, in view of the postcard receipt and practitioner's statement, Figures 5 and 6 of the drawings received on 03 June 2009 may properly be accepted as originally received in the RO/US on 09 February 2009.

CONCLUSION

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

The international filing date of the above-identified international application is 09 February 2009.

The INVITATION RELATING TO CERTAIN PARTS OF THE INTERNATIONAL APPLICATION THAT ARE, OR APPEAR TO BE, MISSING (Form PCT/RO/107) mailed 02 March 2009 is hereby VACATED.

The NOTIFICATION CONCERNING LATER SUBMITTED PARTS OF AN INTERNATIONAL APPLICATION (Form PCT/RO/126) mailed 22 May 2009 is hereby VACATED.

The NOTIFICATION ON DECISION OF CONFIRMATION OF INCORPORATION BY REFERENCE OF ELEMENT OR PART (Form PCT/RO/114) mailed 22 May 2009 is hereby VACATED.

The NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating the international filing date as 17 April 2009 mailed 22 May 2009 is hereby VACATED.

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

CC: International Bureau of WIPO

17 JUL 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNIS W. BEECH
LAW OFFICES OF DENNIS W. BEECH
P.O. BOX 519
MURRIETA, CA 92564

In re Application of RUSSELL	:	
PCT Application No.: PCT/US2009/000938	:	
Int. Filing Date: 14 February 2009	:	
Priority Date Claimed: 13 February 2008	:	DECISION
For: METHOD AND SYSTEM FOR HYDROGEN POWERED FUEL CELLS	:	

This is in response to applicant's correspondence filed 03 March 2009, which is being treated as a petition under 37 CFR 1.10(d). No petition fee is due.

BACKGROUND

Purportedly on 13 February 2009, 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 receipt date of 14 February 2009.

On 04 March 2009, 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 and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110).

On 08 May 2009, applicant filed the present petition under 37 CFR 1.10(d).

DISCUSSION

The petition states that the USPS entered the wrong receipt date on the Express Mail label and that the correct deposit date should be 13 February 2009.

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 present petition was promptly filed.

With regard to item (2) above, a review of the application file reveals insufficient evidence that the Express Mail number was placed on the application papers prior to the original mailing by Express Mail. It is noted that Express Mail number "EM 286103211 US" was placed on a certificate of mailing, but this number does not match the Express Mail number shown on the copy of the Express Mail label submitted with the petition.

With regard to item (3), although the petition includes corroborating evidence in the form of a USPS register receipt, the petition does not contain an adequate showing of deposit (e.g. an affidavit signed by the person who actually mailed the correspondence in question) stating that the application was personally deposited in Express Mail prior to the last scheduled pickup on 13 February 2009.

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 under 37 CFR 1.136 are available. 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.

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24 FEB 2010

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DENNIS W. BEECH
LAW OFFICES OF DENNIS W. BEECH
P.O. BOX 519
MURRIETA, CA 92564

In re Application of RUSSELL :
PCT Application No.: PCT/US2009/000938 :
Int. Filing Date: 14 February 2009 :
Priority Date Claimed: 13 February 2008 : DECISION
For: METHOD AND SYSTEM FOR HYDROGEN :
POWERED FUEL CELLS :

This is in response to applicant's renewed petition under 37 CFR 1.10(d) filed 06 October 2009.

BACKGROUND

Purportedly on 13 February 2009, 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 receipt date of 14 February 2009.

On 04 March 2009, 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 and/or Notification of Possibility to Request Restoration of the Right of Priority (Form PCT/RO/110).

On 08 May 2009, applicant filed a petition under 37 CFR 1.10(d).

On 17 July 2009, this Office mailed a decision dismissing the 08 May 2009 petition.

On 06 October 2009, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

The petition states that the USPS entered the wrong receipt date on the Express Mail label and that the correct deposit date should be 13 February 2009.

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 present petition was promptly filed.

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

With regard to item (3), although petitioner has furnished corroborating evidence in the form of a USPS register receipt, the petition does not contain an adequate showing of deposit (e.g. an affidavit signed by the person who actually mailed the correspondence in question) stating that the application was personally deposited in Express Mail prior to the last scheduled pickup on 13 February 2009. The Express Mail certificate of mailing states that Annerose Beech was the person who personally deposited the correspondence in Express Mail. However, an affidavit from Ms. Beech has not been provided.

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 under 37 CFR 1.136 are available. 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 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.

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17 JUL 2009

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JOHN MAHONEY
1353 MARIN AVENUE
ALBANY, CA 94706

In re Application of GREEN	:	
PCT Application No.: PCT/US2009/001658	:	
Int. Filing Date: 14 March 2009	:	DECISION
Priority Date Claimed: 14 March 2008	:	
Attorney Docket No.: GO2-001	:	
For: METHOD TO REMOVE ALGAE FROM EUTROPHIC WATER	:	

This is in response to applicant's "Rule § 1.181 Petition to Accept PCT Patent Application and Grant Filing Date" filed 22 May 2009, which is being treated under 37 CFR 1.10(c).

BACKGROUND

On 14 March 2009, 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 16 March 2009.

On 22 May 2009, applicant filed the present petition.

On 16 June 2009, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

DISCUSSION

The petition states that applicant became aware that the RO/US had no record of the present application being filed and requests that the application be accorded a filing date of 14 March 2009. It is apparent from the record that the originally filed papers are present in the present application file and were processed as an international application. 37 CFR 1.6(a)(2) specifies that correspondence filed in accordance with 37 CFR 1.10 will be stamped with the date of deposit as Express Mail. Although the petition states that the application papers were deposited in Express Mail on 14 March 2009, the papers were accorded a filing date of 16 March 2009 by the RO/US.

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.

With regard to item (2) above, there is no evidence currently of record showing 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 14 March 2009.

CONCLUSION

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

The application has an international filing date of 16 March 2009.

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 1.10(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,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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JOHN MAHONEY
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In re Application of GREEN	:	
PCT Application No.: PCT/US2009/001658	:	
Int. Filing Date: 14 March 2009	:	DECISION
Priority Date Claimed: 14 March 2008	:	
Attorney Docket No.: GO2-001	:	
For: METHOD TO REMOVE ALGAE FROM EUTROPHIC WATER	:	

This is in response to applicant's renewed petition under 37 CFR 1.10(c) filed 24 August 2009.

BACKGROUND

On 14 March 2009, 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 16 March 2009.

On 22 May 2009, applicant filed a petition under 37 CFR 1.10(c).

On 16 June 2009, the RO/US mailed, *inter alia*, a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105).

On 17 July 2009, this Office mailed a decision dismissing the 22 May 2009 petition.

On 24 August 2009, 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.

Petitioner has previously satisfied items (1) and (3) above.

With regard to item (2) above, the renewed petition does not contain sufficient evidence that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

MPEP 513, Section III, states in relevant part,

> Effective December 2, 1996, 37 CFR 1.10(b) no longer requires a certificate of mailing by "Express Mail" or that the "Express Mail" mailing label number be placed on the correspondence prior to mailing. Correspondence deposited with the USPS on or after December 2, 1996, and which is actually received by the Office will not be denied a filing date as of the "date-in" appearing on the "Express Mail" mailing label because the number of the "Express Mail" mailing label was not placed on the correspondence prior to the original mailing. However, if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c), (d), (e), (g) or (h), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) 1.10(e), 1.10(g), or 1.10(h). To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

> 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. (Emphasis added.)

In the present case, the Express Mail label number does not appear on any of the originally filed papers. The affidavit of Franklin Bailey Green fails to state that the Express Mail label number was placed directly on any of the submitted documents or on a separate paper firmly and securely attached thereto.

CONCLUSION

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

The application has an international filing date of 16 March 2009.

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 1.10(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, 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
MOERAE MATRIX, INC.
PCT No.: PCT/US09/02117
International Filing Date: 02 April 2009
Priority Date: 02 April 2008
Attorney's Docket No.: 117477-010202
For: THERAPEUTIC USES OF BIOCOMPATIBLE BIOGEL COMPOSITIONS

DECISION ON PETITION

This decision is issued in response to applicant's "Petition and Declaration to Accord the Above-Referenced Application the Filing Date as of the "Date-In" on the Express Mail Mailing Label Under 37 C.F.R. § 1.10 and 37 C.F.R. § 1.181" filed 23 July 2009 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 02 April 2009, applicant filed papers with the United States Receiving Office (RO/US) including a PCT Request form (Form PCT/RO/101).

On 02 June 2009, applicant was mailed a form PCT/RO/107 indicating that pages 80 and 84 of the description were or appeared to be missing and inviting applicant to a) complete the international application by furnishing the missing parts or b) confirm in accordance with Rule 20.6(a) that the part was incorporated by reference under Rule 4.18. Applicant was afforded two months to file a response.

On 23 July 2009, applicant filed the present petition which accompanied by an additional set of application papers filed 02 April 2009 and pages 80 and 84 of the description. It appears from the petition and supporting exhibits that applicant is seeking retention of the accorded international filing date of 02 April 2009 while also having pages 80 and 84 considered part of the international application.

DISCUSSION

I. Petition Under 37 CFR 1.10

Applicant is advised that the petition under 37 CFR 1.10(e) is not appropriate for the present situation. Applicant is apparently arguing that pages 80 and 84 of the description were included in the papers filed 02 April 2009 and therefore should be included in the international application while retaining an international filing date of 02 April 2009.

The Manual of Patent Examining Procedure (MPEP) section 513 explains that petitions under 37 CFR 1.10(e) only apply in cases where none of the filed papers in question were received by the Office:

37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost *in toto* (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

As such, the petition under 37 CFR 1.10 is dismissed.

II. Petition Under 37 CFR 1.181

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). In the present case, applicant states that the return receipt postcard has not been returned. As applicant has not provided a copy of a stamped return receipt postcard from the USPTO showing receipt of pages 80 and 84 on 02 April 2009 it is not possible to grant applicant's petition under 37 CFR 1.181 at this time. It is noted that as detailed in the Form PCT/RO/146 mailed 02 June 2009, sheet 4 of the PCT Request for this application was corrected *ex oficio* to indicate the receipt of 93 sheets of description rather than the originally indicated 95.

It appears from the filing that applicant's main goal is retention of the international filing date of 02 April 2009 and the corresponding priority date of 02 April 2008. Applicant is advised that the previously missing sheets have been supplied to the USPTO within the time period detailed on the Form PCT/RO/107 mailed 02 June 2009. Based on applicant's petitions seeking retention of the 02 April 2009 international filing date and dismissal of said petitions these two sheets have not been entered into the international application since pursuant to PCT Rule 20.5(c) entering of the sheets would result in the international filing date being changed to 23 July 2009. Should applicant desire the inclusion of the subject sheets complete and the corresponding adjustment of the international filing date to 23 July 2009 applicant should provide the USPTO with this instruction within the two month period detailed below.

CONCLUSION

For the reasons stated above, applicant's petitions under 37 CFR 1.10 and 37 CFR 1.181 are **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 1.181." 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.

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FLORHAM PARK, NJ 07932

In re Application of
MOERAE MATRIX, INC.
PCT No.: PCT/US09/02117
International Filing Date: 02 April 2009
Priority Date: 02 April 2008
Attorney's Docket No.: 117477-010202
For: THERAPEUTIC USES OF BIOCOMPATIBLE BIOGEL COMPOSITIONS

DECISION ON PETITION

This decision is issued in response to applicant's "Response to Decision on Petition Requesting Reconsideration" filed 20 August 2009 in the United States Patent and Trademark Office (USPTO). The petition is being considered pursuant to 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 August 2009, applicant was mailed a decision dismissing applicant 's petitions under 37 CFR 1.10(e) and 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 20 August 2009, applicant filed the present petition which included a request for incorporation by reference of the subject missing pages of the specification.

DISCUSSION

As detailed in the decision mailed 04 August 2009, 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). In the present case applicant has not been able to provide a stamped return postcard. All internal USPTO records indicate that sheets 80 and 84 of the specification were not filed with the USPTO, i.e. Form PCT/RO/146 mailed 02 June 2009, shows that sheet 4 of the PCT Request for this application was corrected *ex oficio* to indicate the receipt of 93 sheets of description rather than the originally indicated 95. As such, it is not possible to grant applicant's petition under 37 CFR 1.181 to accept the replacement sheets as having been filed on 02 April 2009. As applicant has not stated a desire to have the missing sheets included in the application with the necessary adjustment of the international filing date to 23 July 2009, sheets 80 and 84 of the specification supplied on 23 July 2009 will not be included in the international application. A form as to applicant's incorporation accompanies this decision.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

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.

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Attch: Form PCT/RO/114

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25 SEP 2009

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MICHAEL BERGMAN
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In re Application of PRISTINE INFOTECH, INC. :
PCT Application No.: PCT/US2009/002788 :
Int. Filing Date: 05 May 2009 : DECISION
Priority Date Claimed: 05 May 2008 :
Attorney Docket No.: P9000 :
For: CONSUMER GOODS PRICE PREDICTION :
AND OPTIMIZATION :

This is in response to applicant's petition under 37 CFR 1.10(c) filed 08 September 2009.

BACKGROUND

On 05 May 2009, 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 06 May 2009.

On 22 May 2009, 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 08 September 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 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 bears an official USPS date stamp of 05 May 2009.

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) and Invitation to Correct Priority Claim (Form PCT/RO/110) mailed 22 May 2009 are 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)

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ANITA VARMA
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BOSTON, MA 02110

In re Application of ACCELERON PHARMA INC. :
PCT Application No.: PCT/US2009/003838 :
Int. Filing Date: 26 June 2009 :
Priority Date Claimed: 26 June 2008 : DECISION
Attorney Docket No.: PHPH-038-WO1 :
For: ANTAGONISTS OF ACTIVIN-ACTRIIA :
AND USES FOR INCREASING RED :
BLOOD CELL LEVELS :

This is in response to applicant's petition under 37 CFR 1.10(c) filed 24 August 2009.

BACKGROUND

On 26 June 2009, 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 25 June 2009.

On 11 August 2009, 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 08 December 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) 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 bears an official USPS date stamp of 26 June 2009.

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 11 August 2009 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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

04 SEP 2009

ANITA VARMA
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

In re Application of ACCELERON PHARMA INC.
PCT Application No.: PCT/US2009/003838
Int. Filing Date: 26 June 2009
Priority Date Claimed: 26 June 2008
Attorney Docket No.: PHPH-038-WO1
For: ANTAGONISTS OF ACTIVIN-ACTRIIA AND USES FOR INCREASING RED BLOOD CELL LEVELS

DECISION

This is in response to applicant's petition under 37 CFR 1.10(c) filed 24 August 2009.

BACKGROUND

On 26 June 2009, 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 25 June 2009.

On 11 August 2009, 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 08 December 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) 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 bears an official USPS date stamp of 26 June 2009.

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 11 August 2009 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

25 AUG 2009

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 MASSACHUSETTS 02110

In re Application of ACCELERON PHARMA, INC.:	DECISION ON
PCT No.: PCT/US09/03843 :	
Int. Filing: 26 June 2009 :	PETITION
Priority Date: 26 June 2008 :	
Attorney Docket No.: PHPH-037-W01 :	UNDER 37 CFR 1.10(c)
For: METHODS FOR DOSING AN ACTIVIN-ACTRIIA ANTAGONIST AND MONITORING OF TREATED PATIENTS :	

This decision is in response to applicant's "PETITION TO CORRECT INTERNATIONAL FILING DATE OF THE INTERNATIONAL APPLICATION" Under 37 CFR 1.10(c) filed in the United States Patent and Trademark Office (USPTO) on 11 August 2009, to accord a filing date of 26 June 2009 to the above referenced application. No petition fee is required.

BACKGROUND

Applicant filed international application No. PCT/US09/03843 with the United States Receiving Office, claiming a priority date of 26 June 2008 deposited with the United States Postal Service (USPS) using the Express Mail service. The application papers were accorded an international filing date of 27 June 2009.

On 06 August 2009, the Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) was mailed.

On 11 August 2009, 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 bearing USPS barrel stamp of 26 June 2009.

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 # EV970404695US, which bears a USPS barrel stamp date of "JUN 26 2009". The transmittal letter having "Express Mail" mailing label Express Mail #EV970404695US 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 26 June 2009. Specifically, the "Express Mail" label number ("EV970404695US") 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 26 June 2009.

CONCLUSION

Applicant's petition requesting that the international application papers be accorded a filing date of 26 June 2009 is **GRANTED**.

The Notification of the International Application Number and of the International Filing Date (FORM PCT/RO/US/105) mailed on 06 August 2009 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 26 June 2009.

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

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 09/03843

International Filing Date 26 JUN 2009 (27.06.09)

RO/US

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference *(if desired) (12 characters maximum)* PHPH-037-WO1

Box No. I TITLE OF INVENTION

METHODS FOR DOSING AN ACTIVIN-ACTRIIA ANTAGONIST AND MONITORING OF TREATED PATIENTS

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.)*

ACCELERON PHARMA INC.
128 Sidney Street
Cambridge, Massachusetts 02139
United States of America

Telephone No. (617) 576-2220

Facsimile No. (617) 547-1043

Applicant's registration No. with the Office

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. *(See also the Notes to Boxes Nos. II and III.)*

E-mail address

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.)*

VARMA, Anita
Ropes & Gray LLP
One International Place
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United States of America

Telephone No. (617) 951-7796

Facsimile No. (617) 951-7050

Agent's registration No. with the Office 43,221

☐ **E-mail authorization**: Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. *(See also the Notes to Boxes Nos. II and III.)*

E-mail address

☐ **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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25 NOV 2009

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Alexandria, VA 22313-1450
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Wesley W. Whitmyer, Jr.
ST. ONGE STEWARD JOHNSON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619

In re Application of :
DIMENSION-POLYANT, INC. :
PCT No.: PCT/US2009/004815 :
Int. Filing Date: 21 August 2009 : **DECISION**
Priority Date: 21 August 2008 :
Attorney's Docket No.: 00848-P0049A :
For: APPARATUS AND METHOD OF :
PRODUCING REINFORCED LAMINATED :
PANELS AS A CONTINUOUS BATCH :

This decision is in response to the petition filed with the United States Receiving Office (RO/US) on 14 October 2009 which is treated as a petition under 37 CFR 1.181.

BACKGROUND

Applicant filed PCT/US2009/004815 claiming priority to U.S. application No. 12/195,963 filed 21 August 2008. These papers were first deemed as received by the RO/US on 24 August 2009.

On 08 September 2009, the RO/US mailed 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) indicating that the international filing date of the subject application is 24 August 2009.

On 14 October 2009, applicant filed the above-captioned petition which was accompanied by, *inter alia*, a date-stamped postcard receipt for the initial papers.

On 05 November 2009, the RO/US mailed 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) indicating that the international filing date of the subject application is now 21 August 2009.

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 this case, applicant provided a copy of the date-stamped filing receipt for the documents submitted 21 August 2009. The postcard receipt records that among the documents submitted to the RO/US included "22 pages of specification, 4 pages of claims, 1 page of abstract and 5 sheets of drawings." The postcard receipt is stamped "IAP03Rec'd PCT 21 AUG 2009" across its face. The attorney docket number, title and name of applicant was listed on the postcard receipt. The postcard was not annotated to indicate that any of the pages listed were missing.

Accordingly, applicant has provided *prima facie* evidence that the subject application was originally received at the USPTO on 21 August 2009.

CONCLUSION

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

The 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) mailed 08 September 2009 are **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.

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

- 6 NOV 2009

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Harry F. Smith
Harrington & Smith, PC
4 Research Drive
Shelton, CT 06484-6212

In re Application of :
BROWN UNIVERSITY :
PCT No.: PCT/US2009/004912 : DECISION ON PETITION
Int. Filing Date: 28 August 2009 : UNDER 37 CFR 1.10
Priority Date: 29 August 2008 :
Attorney Docket No.: 904.0148.U1(WO) :
For: CRYPTOGRAPHIC ACCUMULATORS :
FOR AUTHENTICATED HASH TABLES

This decision is issued in response to applicant's "Response to Invitation to Correct Defects in the International Application and Request to Correct Filing Date" filed 19 October 2009 to accord an international filing date of 28 August 2009 to the above-identified international application. Applicant's request is being treated under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

The United States Receiving Office accorded an international filing date of 27 August 2009 to the above-identified international application.

On 19 October 2009, applicant filed the petition under 37 CFR 1.10 considered herein. The petition asserts that the "Express Mail" envelope containing the present application was deposited with the USPS on 28 August 2009. Applicant therefore requests that the International Filing Date be corrected to 28 August 2009.

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 28 August 2009. Specifically, the "Express Mail" label number ("#EM393129527US") 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 28 August 2009. Moreover, the United States Postal Service database for

tracking "Express Mail" packages shows "Express Mail" label number "EM393129527US" as having a "Acceptance Date" of 28 August 2009.

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 28 August 2009. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 28 August 2009 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 28 August 2009; (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 28 August 2009; and (3) forwarding a copy of this decision to the International Bureau.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

12 NOV 2009

Commissioner for Patents
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BLUE BELL PA PENNSYLVANIA 19422-3212

In re Application of:	
THERAQUEST BIOSCIENCES, INC..	DECISION ON PETITION
PCT Application No.: PCT/US2009/005394	(37 CFR 1.10(c))
International Filing Date: 28 September 2009	
Priority Date: 09 March 2009	
Atty Docket NoBUPOR.092809	
Title: MODIFIED RELEASE PHARMA-CEUTICAL COMPOSITIONS OF BUPRENORPHINE	

This decision is issued in response to the "Petition To Correct Filing Date Discrepancy Under 37 CFR 1.10(c)" filed 28 October 2009. 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 EO965537481US.

On 29 October 2009, 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 30 September 2009.

On 28 October 2009, applicant filed the "Petition To Correct Filing Date Discrepancy Under 37 CFR 1.10(c)" considered herein. The petition asserts that the proper filing date for the application materials is 28 September 2009, the date on which the "Express Mail" envelope containing the international application was deposited with the United States Postal Service (USPS). The petition is accompanied by, among other materials, a copy of a customer receipt for "Express Mail" label number E0965537481US dated 28 September 2009, as well as USPS tracking data indicating that the envelope was accepted by the USPS on 28 September 2009.

On 03 November 2009, the United States Receiving Office (RO/US) mailed a corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying the international filing date as 28 September 2009.

DISCUSSION

Applicant asserts that the proper international filing date for the international application materials is 28 September 2009, 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 accompanied the original application papers, and a copy of applicant's dated payment receipt is included with the present petition. Petitioner has also provided a copy of the USPS tracking data for this "Express Mail" envelope. The tracking data indicates that the envelope was accepted by the USPS on 28 September 2009.

Based on applicant's statements, the Transmittal Letter included with the original application papers (which listed the "Express Mail" label number), the dated payment receipt and the USPS tracking data, it is concluded that the present application materials were deposited as "Express Mail" with the USPS on 28 September 2009. Accordingly, pursuant to 37 CFR 1.10(c), the appropriate filing date for these materials is 28 September 2009.

CONCLUSION

The petition to correct the international filing date is **GRANTED**.

The international filing date is hereby corrected to **28 September 2009**.

The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 29 October 2009, which incorrectly identified the international filing date as 30 September 2009, is hereby **VACATED**.

As noted above, a corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) correctly identifying the international filing date as **28 September 2009** has been issued herein.

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 will be forwarded to the International Bureau (IB).

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

cc: International Bureau at WIPO

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 09/05394

International Filing Date 28 SEP 2009

Name of receiving Office and "PCT International Application" PCT INTERNATIONAL APPLICATION RO/US

Applicant's or agent's file reference *(if desired) (12 characters maximum)* BUPOR.092809

Box No. I TITLE OF INVENTION

MODIFIED RELEASE PHARMACEUTICAL COMPOSITIONS OF BUPRENORPHINE

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.)*

TheraQuest Biosciences, Inc.
146 Medinah Drive
Blue Bell, PA 19422-3212
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Telephone No. 610-272-2071

Facsimile No. 610-272-2072

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 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.)*

BABUL, Najib
146 Medinah Drive
Blue Bell, PA 19422-3212
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: USA

State *(that is, country)* of residence: USA

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.)*

BABUL, Najib
146 Medinah Drive
Blue Bell, PA 19422-3212
USA

Telephone No. 610-272-2071

Facsimile No. 610-272-2072

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.

15 JUN 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RICHARD Y.M. TUN
BERLINER & ASSOCIATES
555 WEST FIFTH STREET, 31ST FLOOR
LOS ANGELES CA CALIFORNIA 90013

In re Application of THE REGENTS OF THE UNIVERSITY OF CALIFORNIA PCT App. No.: PCT/US09/05553 Int. Filing Date: 09 October 2009 Priority Date: None Attorney Docket No.:1279-507PC For: HIGHLY BASIC IONOMERS AND MEMBRANES AND ANION/HYDROXIDE EXCHANGE FUEL CELLS COMPRISING THE IONOMERS AND MEMBRANES	DECISION on PETITION UNDER 37 CFR 1.182

This is in response to applicant's "Petition To Correct and Refund Fees" under 37 CFR 1.182 filed in the United States Receiving Office (RO/US) on 02 February 2010.

On 09 October 2009, 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 October 2009, applicant filed a "Petition to Correct PCT International Search Authority under 37 CFR 1.182". The petition fee was paid. On 27 October 2009, a Notification of Receipt of Search Report was mailed to applicant indicating that the ISA/US had received the search copy.

On 11 December 2009, a Notification of Transmittal of the International Search Report and the Written Opinion (PCT/ISA/220) was mailed.

Applicant is advised that the Patent Cooperation Treaty and PCT Regulations do not specifically provide for a change in the International Searching Authority (ISA) upon applicant's request. In the instant case, the search copy for the present application has been prepared and communicated, and the search of the above referenced application has been completed, a change in International Searching Authority is not permissible.

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED**. The $400 petition fee will be refunded to applicant's deposit account.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney
PCT Legal Office
Office of PCT Legal Administration
Telephone: 571-272-3286
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29 DEC 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA MASSACHUSETTS 02210-2206

In re Application of:
PRIMET PRECISION MTERIALS, INC.
PCT No.: PCT/US2009/005784
Int'l Filing Date: 23 October 2009
Priority Date: 24 October 2008
Attorney's Docket No.: PO806.70014
For: GROUP IVA SMALL PARTICLE COMPOSITIONS AND RELATED METHODS

DECISION ON PETITION UNDER 37 CFR 1.10

This is in response to applicant's "Petition To Establish International Filing Date Under 37 CFR 1.10" filed 11 December 2009, treated herein under 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

Applicant initiated the present international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail." The application materials included a Transmittal Letter that identified the "Express Mail" label number as EM130428158US and identified the date of deposit with the USPS as 23 October 2009.

On 03 November 2009, the RO/US mailed a "Notification of the International Application Number and of the International Filing Date" (Form PCT/RO/105), informing applicant that the application had been accorded an International Filing Date of 24 October 2009.

On 11 December 2009, applicant filed the "Petition To Establish International Filing Date Under 37 CFR 1.10" considered herein. The petition asserts that the "Express Mail" envelope containing the present application was deposited with the USPS on 23 October 2009. Applicant therefore requests that the International Filing Date be corrected to 23 October 2009.

DISCUSSION

Applicant's submission includes a copy of the customer receipt label for "Express Mail" envelope EM130428158US. The handwritten "date in" on the label is 24 October 2009. By this petition, applicant seeks to have a filing date assigned to the international application that differs

from the "date in" indicated on the "Express Mail" label. The applicable regulation for such circumstances is 37 CFR 1.10(d), which states the following:

> 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), the present petition was promptly filed after applicant became aware that the Office had accorded a filing date based upon an allegedly incorrect entry by the USPS. Item (1) is therefore satisfied.

With regard to item (2), as noted above, the "Express Mail" label number is listed on the Transmittal Letter filed with the application papers. Item (2) is therefore satisfied.

With regard to item (3) above, the "Express Mail" label provided by applicant bears, in addition to the hand-written "date in" of 24 October 2009, a separate USPS stamp dated 23 October 2009. In addition, applicants have provided a copy of the USPS tracking data for this envelope. The tracking data confirms that the USPS accepted this "Express Mail" envelope on 23 October 2009. These materials, in combination with the statements in the present petition, adequately establish that "Express Mail" label number EM130428158US, containing the present international application, was deposited with the USPS on 23 October 2009. Item (3) is therefore satisfied.

Applicant has satisfied all the requirements for a grantable petition under 37 CFR 1.10(d). The requested correction of the international filing date to 23 October 2009 is therefore appropriately granted.

CONCLUSION

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

The international filing date is corrected to **23 October 2009**.

The "Notification Of The International Application Number And Of The International Filing Date" mailed 03 November 2009, which identified 24 October 2009 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 **23 October 2009** 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
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PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
ROBERT H. WALAT
WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MASSACHUSETTS 02210-2206

Confirmation No: 2018

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.2(c))

Date of mailing *(day/month/year)*	29 Dec 2009
Applicant's or agent's file reference: P0806.70014WO00	IMPORTANT NOTIFICATION

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2009/005784	23 Oct 2009	24 Oct 2008

Applicant
PRIMET PRECISION MATERIALS, INC.

Title of the invention
GROUP IVA SMALL PARTICLE COMPOSITIONS AND RELATED METHODS

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 03 Nov 2009

☐ 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: LH

☐ 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 02 Nov 2009 (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	Richard Ross RR
Facsimile No. 571-273-3201	Telephone No. 571-272-3296

Form PCT/RO/105 (July 2008)

- 2 DEC 2009

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William H. Quirk
Tuggey Rosenthal Pauerstein
755 East Mulberry Avenue
Suite 200
San Antonio, TX 78212

In re Application of
VENTURE 12, LLC :
PCT No.: PCT/US2009/005920 :
Int. Filing Date: 06 March 2009 : DECISION ON PETITION
Priority Date: None :
Attorney Docket No.: 81214.00003 :
For: THERMAL SYSTEMS USING :
THERMALLY-CONDUCTIVE :
PARTICULATE THERMAL MEDIA AND
METHODS

This decision is issued in response to applicant's "Petition under 37 CFR 1.182 to Accept Patent Application as International and to Charge Required Fees" filed in the United States Patent and Trademark Office (USPTO) on 14 October 2009, which is being treated as a petition under 37 CFR 1.182. Applicant requests that the application is considered as an international application filed under the Patent Cooperation Treaty instead of a National Stage application filed under 35 U.S.C. 371. A $400.00 petition fee will be charged to counsel's credit card and applied as the fee for the petition under 37 CFR 1.182.

BACKGROUND

On 06 March 2009, applicant filed a specification, including the claims, an abstract, and drawings (31 pages) together with a "Transmittal Letter to the United States Designated/Elected Office Concerning a Submission under 35 U.S.C. 371" (Form PTO-1390) indicating that the filing was under 35 U.S.C. 371.

On 14 October 2009, applicant filed the present "Petition under 37 CFR 1.182 to Accept Patent Application as International and to Charge Required Fees." Petitioner requests, in effect, that the application papers filed 06 March 2009 be considered as a filing of an international application under the Patent Cooperation Treaty (PCT), not an application filed under 35 U.S.C. 371. (The submission was assigned PCT/US2009/005920.)

DISCUSSION

A. Treatment of application under the Patent Cooperation Treaty

A review of the application file reveals that no PCT Request (Form PCT/RO/101) was filed with the present application, instead, applicant submitted a "Transmittal Letter to the United States Designated/Elected Office Concerning a Submission under 35 U.S.C. 371" (Form PTO-1390) indicating that the filing was under 35 U.S.C. 371. Additionally, applicant included a cover letter indicating the following items were being submitted, *inter alia*: a Transmittal Letter to the US Receiving Office and a PCT Application (Specification, Claims, & Abstract). However, a transmittal letter to the RO/US was not included, but rather the aforementioned Transmittal Letter to the United States Designated/Elected Office (Form PTO-1390).

However, the Transmittal Letter (Form PTO-1390) did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage, therefore, this application cannot presently be processed under 35 U.S.C. §371. The application papers contained all the elements necessary to obtain a filing date under Article 11 of the Patent Cooperation Treaty. Since applicant cannot proceed under 35 U.S.C. 371 and applicant has filed the necessary papers under Article 11 of the Patent Cooperation Treaty, it is appropriate in this instance to grant applicant's petition to accept the papers filed on 06 March 2009 as an international application under the Patent Cooperation Treaty.

Petitioner states in the present petition that it was applicant's intent "to file an international application is apparent throughout, including references to its character, as a 'PCT Application' in the cover letter, on the mailing label, and in the return post card. . . " The present submission has been treated as a petition under 37 CFR 1.182 to correct applicant's error. With the payment of the petition fee required to correct the above error and the statement of clarification, the materials satisfy the requirements for a grantable petition to correct applicant's error and such materials will be treated as having been directed to an international application filed under the Patent Cooperation Treaty. Accordingly, the papers filed on 06 March 2009 have been placed in application number PCT/US2009/005920 and will be accorded an international filing date of 06 March 2009.

Applicant's request that the 24 pages of descriptions, 3 pages of claims, 1 page abstract, 3 sheets of drawings filed 06 March 2009 be treated as a PCT application and accorded an international filing date of 06 March 2009 is granted.

B. U.S. as a Competent Receiving Office

A review of the present application reveals that the Request (Form PCT/RO/101) is not located therein. However, the United States Receiving Office was able to determine the name of the applicant (Venture 12, LLC), since it was set forth on other papers filed on 06 March 2009, i.e. Transmittal Letter and Assignment. Further, since the originally filed

papers included an executed Assignment, the RO/US was able to determine that the applicant (assignee), Venture 12, LLC, is a U.S. entity, formed and domiciled in the United States. Pursuant to PCT Rule 19.1, the RO/US is a competent receiving office for the present application.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED** and the international application will be accorded an international filing date of 06 March 2009.

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

Applicant should use international application number PCT/US2009/005920 in all future communications with the United States Patent and Trademark Office.

Anthony Smith
Attorney-Advisor
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Fax: (571) 273-0459

14 MAY 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PETER V.D. WILDE
301 EAST LANDING
WILLIAMSBURG VA 23185

In re Application of	:	
OCLARO (North America), Inc.	:	
PCT No.: PCT/US2009/006210	:	DECISION ON
Int. Filing Date: 22 April 2010	:	
Priority Date: 21 November 2008	:	PETITION
Docket No.: OCL1511	:	
For: WAVELENGTH DIVISION MULTIPLEXED SYSTEMS WITH OPTICAL PERFORMANCE MONITORS	:	UNDER 37 CFR 1.181

This decision is in response to applicant's Petition Under 37 CFR 1.181 filed with the United States Patent and Trademark Office on 22 April 2010. There is no fee for this petition. The $400 petition fee will be credited to deposit account no. 04-0822.

BACKGROUND

On 19 November 2009, applicant filed a Request (Form PCT/RO/101), accompanied by a transmittal letter, a fee calculation sheet and fees.

On 11 December 2009, the Office mailed Invitation to Correct the Purported International Application (Form PCT/RO/103) indicating that the application lacked a part which on its face appeared to be a description or claims. It further indicated that except for elements considered to have been contained in the international application under Rule 20.6(b), the international filing date will be the date on which the corrections are received, if that date falls within the time limit indicated above. If the corrections are received beyond the time limit, the application will not be treated as an international application.

On 24 February 2010, the Office mailed Notification that the Purported International Application Is Not and Will Not Be Treated As an International Application (Form PCT/RO/104) indicating that applicants failed to respond to the Invitation issued 11 December 2009.

On 22 April 2010, applicants filed a description, claims and drawings and a petition under MPEP 711.03(c) to establish nonreceipt of the Invitation to Correct the Purported International Application (Form PCT/RO/103). The petition has been treated as a petition to vacate the Forms PCT/RO/103 and PCT/RO/104.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in MPEP 711.03(c). The showing must include: (1) a statement by the practitioner describing the system used for recording an Office action received at the correspondence address of

record with the USPTO, (2) a statement from practitioner that the Office action was not received by the practitioner; (3) a statement attesting that a search of practitioner's records including the file jacket or the equivalent and application contents, indicates that the Office action was not received; and (4) 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), (2), (3) and (4) have been satisfied.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Invitation to Correct the Purported International Application (Form PCT/RO/103) mailed 11 December 2009 is **VACATED**.

The Notification that the Purported International Application Is Not and Will Not Be Treated As an International Application (Form PCT/RO/104) mailed 24 February 2010 is **VACATED**.

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.

This application is being returned 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

UNITED STATES PATENT and TRADEMARK OFFICE

05 MAR 2009

COMMISSIONER FOR PATENTS
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John R. Storella
WILSON SONSINI GOODRICH &
ROSATI
650 PAGE MILL ROAD
PALO ALTO CA CALIFORNIA
94304-1050

In re Application of	:	DECISION ON
PHARMAIN CORPORATION	:	
PCT No.: PCT/US2009/030471	:	
Int. Filing Date: 08 January 2009	:	PETITION UNDER
Priority Date: 09 January 2008	:	
Attorney's Docket No.: 35220-710601	:	
For: SOLUBLE HYDROPHOBIC ... THE SAME	:	37 CFR 1.181

This decision is in response to the "NOTICE OF WITHDRAWAL OF INTERNAITONAL APPLICATION AND PETITION FOR REFUND OF FEES," filed on 16 January 2009, which is being treated a petition under 37 CFR 1.181 requesting that the above international application be withdrawn and the refund of the fees.

BACKGROUND

On 08 January 2009, this international application was filed in the United States Receiving Office (RO/US), claiming an earliest priority date of 09 January 2008.

On 16 January 2009, petitioner filed the present petition. The petition requests the withdrawal of aforementioned international PCT application and to refund the of the official filing fees.

DISCUSSION

The request for withdrawal of the international application under PCT 90*bis* is refused because all applicants have not signed the Power of Attorney properly. In this instance, Gerardo M. CASTILLO, who is signing on behalf of the PHARMAIN CORPORATION, does not appear to have apparent authority because his title is Director of Research/IP because, which is not presumed to be an officer that has authority to sign on behalf of the organization. Note MPEP 1820, the relevant part states that "[i]n general, a person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the organization is not presumed to be an officer or to have the authority to sign on behalf of the organization."

CONCLUSION

The 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) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available 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, 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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30 MAR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN C. DURANT
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ONE MARKET PLAZA - 2000 SPEAR TOWER
SAN FRANCISCO, CA 94105-1104

In re Application of	:	
MELLMO, Inc.	:	DECISION ON
PCT App. No.: PCT/US2009/031861	:	
Int'l Filing Date: 23 January 2009	:	PETITION
Priority Date: 23 January 2008	:	
Attorney Docket No.: R1396-00013	:	UNDER 37 CFR 1.182
For: USER INTERFACE METHOD AND APPARATUS FOR DATA FROM DATA CUBES AND PIVOT TABLES	:	

This decision is in response to applicant's Request to Change the International Search Authority, filed with the United States Patent and Trademark Office on 23 February 2009. It has been treated as a Petition Under 37 CFR 1.182.

BACKGROUND

On 23 January 2009, applicant filed *inter alia* a request, a fee calculation sheet and a description.

On 04 February 2009, the International Search Authority/ United States mailed Notification of Receipt of Search Copy (Form PCT/ISA/202) indicating that work by the ISA/US had commenced.

On 23 February 2009, applicant filed the instant petition to change the international searching authority.

DISCUSSION

Work by the International Searching Authority has commenced, the petition to change the international searching is dismissed.

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/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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1 9 MAY 2009
UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL J. MCGEE
COOK ALEX LTD.
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SUITE 2850
CHICAGO IL ILLINOIS 60606

In re Application of:	:	
HENDRICKSON USA, LLC	:	DECISION
PCT No.: PCT/US2009/032337	:	
Receipt Date: 29 January 2009	:	
Priority Date: 04 February 2008	:	
Atty Docket No.: 0715-0188.01	:	
For: VEHICLE SUSPENSION ASSEMBLY WITH UNIQUE GEOMETRY	:	

This decision is issued in response to the "Communication To Correct Application Numbers" filed 26 February 2009, treated herein as a petition under 37 CFR 1.181 to withdraw a duplicative international application. No petition fee is required.

BACKGROUND

On 29 January 2009, applicant filed two sets of international application materials via the EFS-Web electronic filing system. The first submission included a PCT Transmittal Letter, a PCT Request (4 pages), a description (14 pages), claims (4 pages), drawings (6 pages) and an abstract. The submission did not include a fee payment. The materials were assigned application number PCT/US2009/032334. As indicated on the Electronic Acknowledgement Receipt contained in such application file, the application was filed at 13:12 (i.e., 1:12 p.m.).

The second set of application materials filed by applicant on 29 January 2009 includes what appear to be the same materials as the first submission, except the second submission was accompanied by a fee payment of $3,439. The materials were assigned application number PCT/US2009/032337. As indicated on the Electronic Acknowledgement Receipt contained in the application file, the application was filed at 13:22 (i.e., 1:22 p.m.).

On 06 February 2009, the United States Receiving Office (RO/US) mailed, in the present application (PCT/US2009/032337), a number of forms including the "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105).

On 10 February 2009, the RO/US mailed, in PCT/US2009/032334, a number of forms including the "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) and a "Notification Concerning Payment Of Prescribed Fees"

(Form PCT/RO/102) indicating that applicant had not submitted the required fees in such application.

On 19 February 2009, applicant filed in the present application the "Communication To Correct Application Numbers" considered herein. The petition indicates that applicant did not intend to file two applications, and it requests that one of the duplicate applications be abandoned.

On 16 March 2009, the United States International Searching Authority (ISA/US) mailed in the present application an "International Search Report" (Form PCT/ISA/210) and the "Written Opinion Of The International Searching Authority" (Form PCT/ISA/237).

On 12 May 2009, the RO/US mailed in PCT/US2009/032334 a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/133) indicating that payment of $3,439 in fees, plus an additional $669 late fee, were required in such application. The Notification indicated that the failure to provide payment of such fees within one month "may result in the international application being considered withdrawn by the receiving Office."

DISCUSSION

As set forth above, on 29 January 2009, applicants filed what appear to be two identical applications via the EFS-Web electronic filing system. The applications were assigned international application numbers PCT/US2009/032334 and PCT/US2009/032337.

The present petition indicates that applicant only intended to submit a single application on 29 January 2009 and that applicant only received a single Electronic Acknowledgement Receipt upon filing (the receipt listed the present international application number, PCT/US2009/032337). The petition indicates that applicant was not aware of the duplicative application until receipt of the first forms mailed in PCT/US2009/032334 on 10 February 2009. The petition requests "abandonment of one of PCT/US09/32334 or PCT/US09/32337 and issuance of the appropriate communication providing notice of such action."

There is no mechanism for express "abandonment" of an international application during the international phase. However, an international application may be withdrawn by the applicant(s) pursuant to PCT Rule 90bis.1. In order for a request to withdraw an international application to be effective, the request for withdrawal must be signed by (all) the applicant(s), their appointed agent or appointed common representative. Here, the petition has been executed by agent Michael J. McGee, but the application files do not include power of attorney forms executed by all the applicants appointing Mr. McGee as their agent with respect to the present applications. Accordingly, even if the present petition is interpreted as a request to withdraw one of the international applications under PCT Rule 90bis.1, such request is not effective for failure to provide the required powers of attorney. Moreover, the petition is defective in that it does not specifically identify which of the two applications applicants are seeking to withdraw.

Based on the above, the present petition is not effective to withdraw either of the two duplicative international applications filed on 29 January 2009.

It is noted that, as indicated above, a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/133) was mailed in PCT/US2009/032334 on 12 May 2009, and applicant has not submitted any fees in such application. If applicant fails to provide the required fees in PCT/US2009/032334 prior to the deadline set forth in the Form PCT/RO/133, such application will be considered withdrawn by the RO/US. Such withdrawal would not affect the present international application, PCT/US2009/032337, in which the fees were properly paid by applicant.

CONCLUSION

Based on the above, the petition to withdraw either PCT/US2009/032334 or PCT/US2009/032337 is **DISMISSED** without prejudice.

Any request for reconsideration on the merits must be submitted within **TWO (2) MONTHS** of the mail date of this decision. Any such submission must include a specific request to withdraw either PCT/US2009/032334 or PCT/US2009/032337 executed by all the applicants or, if executed by the agent, then accompanied by power of attorney forms executed by all the applicants appointing such agent as applicants' representative.

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

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19 JUN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mark Cohen
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New York, NY 10036

In re Application of:	:	DECISION
MASSACHUSETTS INSTITUTE OF TECHNOLOGY	:	
PCT Application No.: PCT/US2009/033785	:	
Int. Filing Date: 11 February 2009	:	
Priority Date: 11 February 2008	:	UNDER
Atty Docket No.: P-70183-PC	:	
For: PARTICLE CAPTURE DEVICES AND	:	
METHODS OF USE THEREOF	:	37 CFR 1.181

This decision is in response to applicant's "COMMUNICATION" filed 11 June 2009, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 17 April 2009, the ISA/US issued Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237).

On 11 June 2009, applicant filed the present petition indicating that the Written Opinion of the International Searching Authority appears to be missing pages and therefore requesting a complete copy the Written Opinion of the International Searching Authority.

DISCUSSION

A review of the file reveals that the Written Opinion of the International Searching Authority established by the ISA/US consisted of total of 7 pages. However, the Written Opinion of the International Searching Authority mailed on 17 April 2009 was incomplete since it only consisted of 4 pages.

CONCLUSION

For the reasons given above, the applicant's petition under 37 CFR 1.181 is **GRANTED**.

The complete Written Opinion of the International Searching Authority (form PCT/ISA/237), Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), and International Search Report (form PCT/ISA/210) are 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: Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237)

29 SEP 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Roger W. HERRELL, Jr.
DANN, DORFMAN, HERRELL AND SKILLMAN
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In re Application of	:	
The Children's Hospital of Philadelphia	:	
Application No.: PCT/US2009/034300	:	
Int. Filing Date: 17 FEBRUARY 2009	:	DECISION
Priority Date: 14 FEBRUARY 2008	:	
Attorney's Docket No.: 3460-P04537WO00	:	
For: COMPOSITIONS AND METHODS	:	
TO TREAT ASTHMA	:	

This is in response to the "Applicant's Request for New International Search Report" received 09 September 2009, which is being treated under 37 CFR 1.181.

BACKGROUND

On 17 February 2009, applicants filed international application PCT/US2009/034300. Although the description contained disclosure of nucleotide and amino acid sequences, no sequence listing was filed as a separate part of the description or in computer readable form.

On 22 June 2009, the United States International Searching Authority (ISA/US) issued 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 a Reply Due within One month from the date of mailing.

On 10 July 2009, applicants filed "Applicant's Response to Invitation to Furnish a Sequence Listing," which included: a sequence listing, as both a paper copy (.pdf) and in computer readable form (.txt), together with the required statements.

On 17 July 2009, ISA/US determined that the sequence listing provided 10 July 2009 could not be accepted due to errors.

On 04 August 2009, the ISA/US issued a second Form PCT/ISA/225, indicating a Reply Due within One month from the date of mailing.

On 07 August 2009, applicants filed "Applicant's Response to Invitation to Furnish a Sequence Listing," which included: a sequence listing, as both a paper copy (.pdf) and in computer readable form (.txt), together with the required statements.

On 27 August 2009, the ISA/US issued an "International Search Report" (Form PCT/ISA/210) and a "Written Opinion of the International Searching Authority" (Form PCT/ISA/237) indicating that claims 1-5 and 11 could not be searched because "no valid CRF was filed in response to the ISA/225 of 22 June 2009" and that "[t]he CRF submitted on 10 July 2009 contained errors and was not entered."

On 09 September 2009, applicant filed the instant petition under 37 CFR 1.181.

On 24 September 2009, ISA/US determined that the sequence listing provided 07 August 2009 was accepted.

DISCUSSION

ISA/US records indicate receipt on 07 August 2009, of a sequence listing both in paper and computer-readable form, together with a statement indicating that the two forms are identical and do not contain any new matter and that on 24 September 2009, the sequence listing was accepted. Therefore, applicant complied with the "Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing and/or Tables Related Thereto Complying with Standard and/or Technical Requirements" within the Due Date of 04 September 2009.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The "International Search Report" (Form PCT/ISA/210) and "Written Opinion of the International Searching Authority" (Form PCT/ISA/237) issued 27 August 2009 erred in the non-consideration of claims 1-5 and 11, and are hereby VACATED.

The application is being returned to the ISA/US for preparation and issuance of a new International Search Report and Written Opinion of the International Searching Authority which includes a search of claims 1-5 and 11 based upon the timely-filed and acceptable sequence listing submitted 07 August 2009.

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Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3304
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Bryan Lin
PCT Legal Examiner
Office of Patent Cooperation Treaty
Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

15 JUL 2009

COMMISSIONER FOR PATENTS
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. et al :
PCT Application No.: PCT/US2009/034448 :
Int. Filing Date: 19 February 2009 : DECISION
Priority Date Claimed: 29 February 2008 :
Attorney Docket No.: MRLDOB22547 :
For: OXYNTOMODULIN ANALOGS :

This is in response to applicant's petition under 37 CFR 1.182 filed 07 July 2009.

BACKGROUND

On 19 February 2009, 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 30 March 2009, 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 26 May 2009, the ISA/US mailed a Declaration of Non-Establishment of International Search Report (Form PCT/ISA/203).

On 07 July 2009, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that Form PCT/ISA/225 was either not received or was misplaced after it was received.

If Form PCT/ISA/225 was received, the USPTO does not have authority to excuse a delay in filing correspondence beyond what the PCT and the PCT Regulations allow. PCT Rule 82 specifies that a delay may be excused in certain circumstances where the delay was due to delay/loss in the mail or interruption in the mail service. Applicant has not provided any

evidence that the failure to timely respond to Form PCT/ISA/225 was due to a delay/loss in the mail or interruption in the mail service. Accordingly, the USPTO has no authority to provide the relief requested if applicant cannot demonstrate that Form PCT/ISA/225 was not received.

If applicant desires relief on the basis of nonreceipt of Form PCT/ISA/225, an appropriate petition under 37 CFR 1.181 should be filed. Such petition must meet the requirements set forth in MPEP 711.03(c), Section I.A. "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action".

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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PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

0 7 OCT 2009

COMMISSIONER FOR PATENTS
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MERCK & CO., INC.
126 EAST LINCOLN AVENUE
RAHWAY, NJ 07065-0907

In re Application of MERCK & CO., INC. et al :
PCT Application No.: PCT/US2009/034448 :
Int. Filing Date: 19 February 2009 : DECISION
Priority Date Claimed: 29 February 2008 :
Attorney Docket No.: MRLDOB22547 :
For: OXYNTOMODULIN ANALOGS :

This is in response to applicant's petition under 37 CFR 1.181 filed 14 September 2009.

BACKGROUND

On 19 February 2009, 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 30 March 2009, 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 26 May 2009, the ISA/US mailed a Declaration of Non-Establishment of International Search Report (Form PCT/ISA/203).

On 14 September 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" 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 states that Form PCT/ISA/225 was never received. The petition includes a statement describing the firm's system for recording an Office action received at the correspondence address of record, establishing that the system is sufficiently reliable. Furthermore, the petition states that a search of the practitioner's records, including any file jacket or equivalent, revealed that Form PCT/ISA/225 was not received. However, the required docket report, i.e. a master docket report for the practitioner's firm showing all replies due on 30 April 2009, has not been furnished. If no such master docket exists, or if it is impossible to generate the required master docket report, the practitioner should so state.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

23 DEC 2009

COMMISSIONER FOR PATENTS
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MERCK & CO., INC.
126 EAST LINCOLN AVENUE
RAHWAY, NJ 07065-0907

In re Application of MERCK & CO., INC. et al :
PCT Application No.: PCT/US2009/034448 :
Int. Filing Date: 19 February 2009 : DECISION
Priority Date Claimed: 29 February 2008 :
Attorney Docket No.: MRLDOB22547 :
For: OXYNTOMODULIN ANALOGS :

This is in response to applicant's renewed petition under 37 CFR 1.181 filed 07 December 2009.

BACKGROUND

On 19 February 2009, 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 30 March 2009, 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 26 May 2009, the ISA/US mailed a Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority (Form PCT/ISA/220), a Declaration of Non-Establishment of International Search Report (Form PCT/ISA/203), and a Written Opinion of the International Searching Authority (Form PCT/ISA/237).

On 14 September 2009, applicant filed a petition under 37 CFR 1.181.

On 07 October 2009, this Office mailed a decision dismissing the 14 September 2009 petition.

On 07 December 2009, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" 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 states that Form PCT/ISA/225 was never received. Petitioner has previously provided a statement describing the firm's system for recording an Office action received at the correspondence address of record, establishing that the system is sufficiently reliable. Furthermore, petitioner has previously stated that a search of the practitioner's records, including any file jacket or equivalent, revealed that Form PCT/ISA/225 was not received. The present renewed petition includes a copy of the master docket report for the practitioner's firm showing all replies due on 30 April 2009. Such docket report does not indicate that a response to Form PCT/ISA/225 was due. Thus, it can be concluded with reasonable certainty that Form PCT/ISA/225 was not received.

CONCLUSION

For the reasons above, the renewed 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 (Form PCT/ISA/220), the 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) mailed 26 May 2009 are hereby VACATED.

The application is being returned to the ISA/US for establishment of the international search report and written opinion of the international searching authority. A copy of this decision is being forwarded to the International Bureau.

Bryan Lin

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UNITED STATES PATENT AND TRADEMARK OFFICE

17 JUN 2009

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James A. D. White
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701 Fifth Avenue, Suite 5400
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In re Application of: ATIGEO LLC	:	DECISION
PCT Application No.: PCT/US2009/035184	:	
Int. Filing Date: 25 February 2009	:	
Priority Date: 25 February 2008	:	UNDER
Atty Docket No.: 120175_401PC	:	
For: DETERMINING RELEVANT INFORMATION	:	
FOR DOMAINS OF INTEREST	:	37 CFR 1.181

This decision is in response to applicant's "REQUEST FOR CORRECTION OF INTERNATIONAL SEARCH REPORT" filed 27 May 2009, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 13 April 2009, the ISA/US issued Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) indicating thereon "ANTIGEO LLC" as the applicant.

On 27 May 2009, applicant filed the present petition requesting the ISA/US to correct the forms identified above with "ATIGEO LLC" as the correct name of the applicant.

DISCUSSION

A review of the file reveals that the PCT Request contains "ATIGEO LLC" as the correct name of the applicant. Consequently, the forms PCT/ISA/220, PCT/ISA/210, and PCT/ISA/237 should have contained "ATIGEO LLC" as the correct name of the applicant.

CONCLUSION

For the reasons given above, the applicant's petition under 37 CFR 1.181 is **GRANTED**.

Corrected Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) are 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 Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237)

CORRECTED

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
JAMES A. D. WHITE
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
SUITE 5400
701 FIFTH AVENUE
SEATTLE, WA 98104-7064

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 120175_401PC	Date of mailing *(day/month/year)* 16 JUN 2009 **FOR FURTHER ACTION** See paragraphs 1 and 4 below
International application No. PCT/US 09/35184	International filing date *(day/month/year)* 25 February 2009 (25.02.2009)
Applicant ATIGEO LLC	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

   Filing of amendments and statement under Article 19:
   The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

   When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

   Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes, 1211 Geneva 20, Switzerland, Facsimile No.: +41 22 338 8270

   For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

   ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

   ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

   Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90*bis*.1 and 90*bis*.3, respectively, before the completion of the technical preparations for international publication.

   The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

   Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

   In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

   See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	Authorized officer: Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/220 (January 2004) *(See notes on accompanying sheet)*

CORRECTED

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 120175_401PC	FOR FURTHER ACTION	see Form PCT/ISA/220 as well as, where applicable, item 5 below.
International application No. PCT/US 09/35184	International filing date *(day/month/year)* 25 February 2009 (25.02.2009)	(Earliest) Priority Date *(day/month/year)* 25 February 2008 (25.02.2008)
Applicant ATIGEO LLC		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. **Basis of the report**

a. With regard to the **language**, the international search was carried out on the basis of:

☒ the international application in the language in which it was filed.

☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

b. ☐ This international search report has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43.6*bis*(a)).

c. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (see Box No. II).

3. ☐ **Unity of invention is lacking** (see Box No. III).

4. With regard to the **title**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

a. the figure of the **drawings** to be published with the abstract is Figure No. 1A

☒ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 09/35184

A. CLASSIFICATION OF SUBJECT MATTER
IPC(8) - G06F 7/00 (2009.01)
USPC - 707/3
According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC(8): G06F 7/00 (2009.01)
USPC: 707/3

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched
USPC: 707/3, 6, 7; 709/217, 218 (keyword limited - see search terms below)

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
PubWEST (PGPB,USPT,EPAB,JPAB); Google Scholar
Search Terms: subject, category, domain, classification, theme, interest, relevan, receive, submit, input, content, item, term, analyz, compar, asses, rank, user, result, output, feedback, update, neural, adapt, model, statistic, first, initial, document, page, automat

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 2008/0009268 A1 (RAMER et al.) 10 January 2008 (10.01.2008), entire document, especially Fig. 1 and 2, para [0046], [0061]-[0062], [0078], [0080]-[0082], [0089]-[0093], [0098]-[0101], [0113]-[0115], [0121], [0131], [0134]-[0135], [0141], [0145], [0151], [0169], [0175], [0181], [0221], [0245], [0271], [0299], [0314] and [0318]	1-51
Y	US 2006/0122994 A1 (KAPUR et al.) 08 June 2006 (08.06.2006), Fig. 2 and 6, para [0026], [0031]-[0032] and [0037].	1-51
A	US 2007/0106659 A1 (LU et al.) 10 May 2007 (10.05.2007), entire document	1-51
A	US 2002/0129014 A1 (KIM et al.) 12 September 2002 (12.09.2002), entire document	1-51

☐ Further documents are listed in the continuation of Box C. ☐

* Special categories of cited documents:
"A" document defining the general state of the art which is not considered to be of particular relevance
"E" earlier application or patent but published on or after the international filing date
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
"O" document referring to an oral disclosure, use, exhibition or other means
"P" document published prior to the international filing date but later than the priority date claimed
"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
01 April 2009 (01.04.2009)	16 JUN 2009

Name and mailing address of the ISA/US	Authorized officer:
Mail Stop PCT, Attn: ISA/US, Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/210 (second sheet) (April 2007)

CORRECTED

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
JAMES A. D. WHITE
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
SUITE 5400
701 FIFTH AVENUE
SEATTLE, WA 98104-7064

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing *(day/month/year)*	16 JUN 2009
Applicant's or agent's file reference 120175_401PC	FOR FURTHER ACTION See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US 09/35184	25 February 2009 (25.02.2009)	25 February 2008 (25.02.2008)

International Patent Classification (IPC) or both national classification and IPC
IPC(8) - G06F 7/00 (2009.01)
USPC - 707/3

Applicant
ATIGEO LLC

1. This opinion contains indications relating to the following items:

- [X] Box No. I Basis of the opinion
- [ ] Box No. II Priority
- [ ] Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- [ ] Box No. IV Lack of unity of invention
- [X] Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- [ ] Box No. VI Certain documents cited
- [ ] Box No. VII Certain defects in the international application
- [ ] Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US	Date of completion of this opinion	Authorized officer:
Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	06 April 2009 (06.04.2009)	Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 09/35184

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

   ☒ the international application in the language in which it was filed.

   ☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:

   a. type of material

      ☐ a sequence listing

      ☐ table(s) related to the sequence listing

   b. format of material

      ☐ on paper

      ☐ in electronic form

   c. time of filing/furnishing

      ☐ contained in the international application as filed

      ☐ filed together with the international application in electronic form

      ☐ furnished subsequently to this Authority for the purposes of search

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 09/35184

Box No. V **Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	1-51	YES
	Claims	none	NO
Inventive step (IS)	Claims	none	YES
	Claims	1-51	NO
Industrial applicability (IA)	Claims	1-51	YES
	Claims	none	NO

2. Citations and explanations:

Claims 1-51 lack an inventive step under PCT Article 33(3) as being obvious over US 2008/0009268 A1 to Ramer et al. (hereinafter 'Ramer') in view of US 2006/0122994 A1 to Kapur et al. (hereinafter 'Kapur').

Regarding claim 1, Ramer teaches a computer-implemented method comprising: Under control of one or more computing systems configured to provide information about content items determined to be relevant for identified themes, receiving one or more indications of a first group of multiple content items whose contents are representative of a subject area of interest, and of a second group of multiple content items whose contents are related to the subject area of interest (query entry 208 made by the user, entry 208 may also be paired with recommendations 248, suggestions 242, or categorized 254 prior to further processing, Fig. 2, para [0113]); providing information to one or more users about at least some of the multiple content items of the second group that are identified as each having an assessed degree of relevance to the first identified theme that satisfies one or more indicated criteria, and receiving feedback from the one or more users that reflects a relevance assessed by the one or more users of the identified at least some content items to the first identified theme (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions and/or transactions 234 with the information, Fig. 2, para [0115]); automatically updating the assessed degree of relevance to the first identified theme of each of one or more of the at least some content items of the second group based at least in part on the received feedback (algorithm facility 144 may contain process facilities for analyzing, refining, or filtering user input, ratings obtained from similar users provide the empiric basis for predicting information of relevance to the active user, Fig. 1, para [0080]); and providing information to one or more other users about at least one of the at least some content items of the second group based at least in part on the updated assessed degrees of relevance of the at least one content items (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]). Ramer does not specifically teach automatically analyzing the multiple content items of the first group to identify multiple themes that correspond to the subject area of interest, and automatically assessing degrees of relevance of the multiple content items of the second group to a first of the identified themes. However, Kapur teaches automatically analyzing the multiple content items of the first group to identify multiple themes that correspond to the subject area of interest, and automatically assessing degrees of relevance of the multiple content items of the second group to a first of the identified themes (categorizer 600 receives as input a query, and categorizes the query onto one or more nodes of taxonomy 610, Fig. 6, para [0037], query processing engine allows for the system to implement concept discovery and analysis processes that would enhance the quality of results returned to a user in response to a search query and may be performed by search server 160, Fig. 2, para [0031]-[0032], server system 160 references various collection technologies for populating one or more indexes with pages, links to pages, etc. Such collection technologies include algorithms and interfaces for classifying and ranking web pages within a hierarchical structure such as a taxonomy, Fig. 2, para [0026]). It would have been obvious to one skilled in the art to combine the teachings of Ramer and Kapur since such would have provided a means for analyzing search terms of a query, matching them to related subject areas of interest or categories within a taxonomy, and ranking the results according to relevancy, thereby improving the searcher's ability to select meaningful themes from the search results for further exploration.

Regarding claim 2, Ramer teaches repeatedly providing additional information to users about at least some of the multiple content items of the second group that are determined to be currently relevant to the first identified theme, the determining of the at least some content items that are currently relevant to the first identified theme being based at least in part on current updated assessed degrees of relevance of those content items to the first identified theme at a time of the providing of the additional information (results 222 may be ordered 230 prior to display 232, Fig. 2, para [0115], collaborate filtering procedure based upon previous users' behavior to predict a variable of interest, process is repeated. From this information, models may be derived for future prediction, data set may be updated to capture any changes in user preference for use in revising the prediction model, para [0093]); and repeatedly, after receiving additional feedback from users that reflects the relevance of the multiple content items of the second group to the first identified theme, further updating the assessed degrees of relevance to the first identified theme of the multiple content items of the second group (collaborate filtering procedure based upon previous users' behavior to predict a variable of interest, process is repeated. From this information, models may be derived for future prediction, data set may be updated to capture any changes in user preference for use in revising the prediction model, para [0093]).

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Regarding claim 3, Ramer teaches wherein the automatic assessing of the degrees of relevance of the multiple content items of the second group is further performed for each of at least some of the multiple content items of the second group and each of at least some other of the identified themes, and wherein the method further comprises: repeatedly providing additional information to users about at least some of the multiple content items of the second group that are determined to be currently relevant to one or more of the at least some other identified themes, the determining of the at least some content items of the second group that are currently relevant to the one or more other identified themes being based at least in part on current updated assessed degrees of relevance of those content items to those identified themes at a time of the providing of the additional information (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]); and repeatedly, after receiving additional feedback from users that reflects the relevance of the at least some content items of the second group to the at least some other identified themes, further updating the assessed degrees of relevance to the at least some other identified themes of the at least some content items of the second group (providing a recommendation to the user about other relevant content may be done either during search result display 172 or after a search item has been selected, Fig. 1, para [0100]).

Regarding claim 4, Ramer teaches wherein the automatically assessed degrees of relevance of the multiple content items of the second group to the first identified theme reflect initial assessments of those degrees of relevance, wherein the method further comprises automatically generating an adaptive model that represents the automatically assessed degrees of relevance of the multiple content items of the second group to the first identified theme, the generating of the adaptive model being performed such that the generated adaptive model initially models the initial assessments of the degrees of relevance of the multiple content items of the second group to the first identified theme, and wherein the automatic updating of the assessed degree of relevance to the first identified theme of each of the one or more content items of the second group based at least in part on the received feedback includes updating the generated adaptive model so that it represents the updated assessed degrees of relevance (usage patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, para [0221]).

Regarding claim 5, Ramer teaches repeatedly providing additional information to users about at least some of the multiple content items of the second group that are determined to be currently relevant to the first identified theme, the determining of the at least some content items that are currently relevant to the first identified theme being based at least in part on using a current version of the updated adaptive model at a time of the providing of the additional information to determine current updated assessed degrees of relevance of those content items to the first identified theme (search function 142 is adapted based on usage patterns, usage patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, Fig. 1, para [0221]); and repeatedly, after receiving additional feedback from users that reflects the relevance of the multiple content items of the second group to the first identified theme, further updating the generated adaptive model so that it represents further updated assessed degrees of relevance to the first identified theme of the multiple content items of the second group (search function 142 is adapted based on usage patterns, usage patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, Fig. 1, para [0221]).

Regarding claim 6, Ramer teaches wherein the content items are documents, wherein the generated adaptive model is a document relevance neural network, and wherein the updating of the generated adaptive model is performed using automated learning via back propagation (results facility 148 may include general content, text documents, PDF documents, Fig.1, para [0101], neural net algorithms, learning engines, para [0221]).

Regarding claim 7, Ramer teaches wherein the first identified theme includes one or more terms that are part of the contents of one or more of the multiple content items of the first group (address bar 174 allows a user to enter a URL, website, key words, search terms and the like, Fig. 1, para [0046]).

Regarding claim 8, Ramer teaches wherein the automatic analyzing of the multiple content items of the first group to identify the multiple themes includes identifying a plurality of terms that are included in the contents of the multiple content items of the first group, and includes determining a relevance of each of at least some of the plurality of terms to at least some of the multiple content items of the first group, wherein the first identified theme and at least some other of the identified themes each include at least one of the plurality of terms, and wherein the automatic assessing of the degrees of relevance of the multiple content items of the second group to the first identified theme is based at least in part on a determined relevance of the at least one term of the first identified theme to the contents of the multiple content items of the second group (generated search queries may be ordered in a list according to relevancy score, the list may be presented to the user as a list of search terms, para [0299]).

Regarding claim 9, Ramer teaches wherein the first identified theme includes multiple of the plurality of terms that are determined to be related (content website may include terms, words, phrases, expressions, and the like which are relevant to the product, service, business, function, or purpose of the content website, para [0141]).

Regarding claim 10, Ramer teaches wherein the automatic analyzing of the multiple content items of the first group to identify the multiple themes includes determining a relevance between each of one or more of a plurality of terms related to the subject area of interest and each of one or more other of the plurality of terms, and wherein the first identified theme includes multiple terms that have a determined relevance between each other that exceeds a threshold (search facility 142 may use a ranking algorithm which incorporates number of words matching scores with thresholds, Fig. 1, para [0245]).

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Regarding claim 11, Ramer teaches wherein the automatic analyzing of the multiple content items of the first group to identify the multiple themes further includes determining a relevance between at least one term that is part of the first identified theme and each of multiple other terms that are not part of the first identified theme, and wherein the method further comprises providing information to one or more users about at least one of the multiple other terms for possible inclusion with the at least one term as part of the first identified theme, the at least one other terms each being selected for the provided information based at least in part on a determined relevance between the at least one term of the first identified theme and that other term (suggest relevant recommendations for the user, recommendations may be paired with the query entry search results or presented prior to, or following, the display of the search results, para [0181]).

Regarding claim 12, Ramer teaches wherein the automatic analyzing of the multiple content items of the first group to identify the multiple themes further includes determining a relevance between at least one term that is part of the first identified theme and each of multiple other terms that are not part of the first identified theme, wherein the received feedback from the one or more users further reflects a relevance between the at least one term of the first identified theme and at least one of the multiple other terms, and wherein the method further comprises automatically determining to update the first identified theme to include one or more of the at least one other terms based at least in part on the relevance further reflected in the received feedback (tracking the popularity of a product, service, business, transaction, or website by recording the total number of users in the set that rate it favorably, para [0092], suggestions may be retrieved from the cache in response to a query input by the user, previously cached suggestions may be replaced if the new suggestions are ranked higher, [0169]).

Regarding claim 13, Ramer teaches wherein the automatic analyzing of the multiple content items of the first group to identify the multiple themes includes identifying a plurality of terms that represent the multiple content items of the first group, wherein the first identified theme includes multiple of the plurality of terms that are determined to be relevant to each other, and wherein at least one of the multiple terms of the first identified theme corresponds to at least one attribute of at least one of the multiple content items of the first group that is not part of the contents of the multiple content items of the first group (subscriber characteristic information may be used in addition to the key words as a way of refining or customizing the search to the particular user, para [0121]).

Regarding claim 14, Ramer teaches wherein the at least one attribute of the at least one content items of the first group that is not part of the contents of the multiple content items of the first group include at least one of a type of the at least one content items and a source of the at least one content items (user's age, location, time of day, past transactions may be used to predict what the user is more interested in, para [0121]).

Regarding claim 15, Ramer teaches wherein the providing of the information to the one or more users is performed in response to an indication from at least one of the one or more users of the first identified theme (providing a recommendation to the user about other relevant content may be done either during search result display 172 or after a search item has been selected, para [0100]).

Regarding claim 16, Ramer teaches wherein the first identified theme includes at least one term that represents one or more of the multiple content items of the first group, and wherein the indication from the at least one user of the first identified theme includes an indication of one or more of the at least one terms (query classification may use a yellow pages-type taxonomy (e.g., restaurants or physicians), para [0100], query 212 is processed and the initial results retrieved 214, Fig. 2, para [0114]).

Regarding claim 17, Ramer teaches wherein the providing of the information to the one or more users further includes providing additional information about one or more of the multiple identified themes, the one or more themes including the first identified theme, and wherein the indication from the at least one user of the first identified theme includes a selection by the at least one users of the first identified theme from the provided additional information (once the results 222 are displayed 232, the user may initiate interactions and/or transactions 234 with the information (e.g., click on a link), Fig. 2, para [0115]).

Regarding claim 18, Ramer teaches wherein the feedback received from the one or more users is based on one or more actions by the one or more users in selecting at least one of the at least some content items for further use, such that the relevance assessed by the one or more users of the identified at least some content items to the first identified theme is automatically inferred from the one or more actions (users may implicitly register a preference through activity such as visiting a site on line or viewing content, para [0082]).

Regarding claim 19, Ramer teaches wherein the feedback received from the one or more users is based on a selection by at least one of the one or more users of at least one of the at least some content items as being confirmed to be relevant to the first identified theme (explicit collection refers to data collected from users who are directly rating items, ranking products, stating preferences, listing favorites, para [0098]).

Regarding claim 20, Ramer teaches wherein the one or more computing systems are configured to provide a relevance determination system that performs the providing of the information about the content items having the contents determined to be relevant for the identified themes, and wherein the providing of the information to the one or more users includes providing that information to another service that interacts with the one or more users to complete the providing of the information to the one or more users (sponsored content 220 may also attach to the query 212 and present tailored results 222 to the user, Fig. 2, para [0114]).

Regarding claim 21, Ramer teaches wherein at least some of the content items of the first and second groups are each a textual document, and wherein the first identified theme includes one or more words that are included in the contents of at least one of the content items of the first group (search facility 142 may use a ranking algorithm which incorporates full-text relevance using term frequency/inverse document frequency, Fig. 1, para [0245]).

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Regarding claim 22, Ramer teaches wherein the at least some content items of the first and second groups are each a Web page (results facility 148 may include web pages, Fig. 1, para [0101]).

Regarding claim 23, Ramer teaches wherein the at least some content items of the first and second groups are each an electronic message (results facility 148 may include messaging, such as SMS MMS and instant messaging, email, Fig. 1, para [0101]).

Regarding claim 24, Ramer teaches wherein the first identified theme includes multiple words, the multiple words including one or more correctly spelled words and one or more misspelled words such that each of the misspelled words corresponds to at least one of the correctly spelled words (disambiguation facility 140 may include spell check algorithms, spell check tables, Fig. 1, para [0061]).

Regarding claim 25, Ramer teaches wherein at least some of the content items of the first and second groups include at least one of audio information, image information, video information, and biological information, and wherein the first identified theme includes one or more attributes of at least one of the content items of the first group (results facility 148 could be podcasts, websites, general images available online, general videos available online, para [0101]).

Regarding claim 26, Ramer teaches wherein at least some of the content items of the first and second groups include at least one of alphanumeric data structures, symbolic data structures, and mathematical data structures (search query input box may be an alphanumeric box, para [0314]).

Regarding claim 27, Ramer teaches wherein at least some of the content items of the first and second groups are each a fragment of a document (text excerpt, para [0175]).

Regarding claim 28, Ramer teaches wherein the content items of the first group are specific to a first user, such that the identifying of the multiple themes is performed in a manner specific to the first user (information may be specifically tailored to the mobile communication facility or its user, para [0089]).

Regarding claim 29, Ramer teaches wherein the content items of the second group are specific to the first user, such that the assessing of the degrees of relevance of the multiple content items of the second group is performed in a manner specific to the first user (relevance may be based at least in part on a statistical association. The statistical association may relate to an association between the content and the information relating to a user history, a user transaction, a user device, a user characteristic, para [0090]).

Regarding claim 30, Ramer teaches wherein the identified multiple themes each correspond to one of multiple alternative types of data used in the subject area of interest, and wherein the at least some content items of the second group are each identified as being of the type of data corresponding to the first identified theme (preference data may be analyzed statistically, a preference function may be created, para [0081]).

Regarding claim 31, Ramer teaches wherein the identified multiple themes each correspond to one of multiple alternative categories of content of the multiple content items of the first group, and wherein the at least some content items of the second group are each identified as having the category of content corresponding to the first identified theme (search facility 142 may initiate a search, such as by causing a query to be executed on a search engine. The search engine might be a search facility that is based on categories of results, Fig. 1, para [0062]).

Regarding claim 32, Ramer teaches wherein the providing of the information about the content items having the contents determined to be relevant for the identified themes is performed for each of one or more other subject areas that each have multiple content items related to that subject area that are analyzed to identify other themes that correspond to that subject area and for which degrees of relevance are automatically assessed to at least one of the identified other themes (query 212 and the initial retrieved results 214 may undergo additional filtering 258 and aggregation 260. Walled garden content 262 and sponsored content 220 may also attach to the query 212 and present tailored results 222 to the user, Fig. 2, para [0114], query results 222 may be ordered 230 prior to display, para [0115]).

Regarding claim 33, Ramer teaches wherein the multiple content items of the first group are distinct from the multiple content items of the second group (algorithm 144 may serve to promote or demote content for display 172 to the user based upon domain restrictions, Fig. 1, para [0078]).

Regarding claim 34 Ramer teaches wherein the multiple content items of the second group include at least some of the multiple content items of the first group (gated garden content distribution model. In the gated garden, the wireless provider 108 may create a virtual toll gate through which third parties may offer their proprietary content, Fig. 1, para [0155]).

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Regarding claim 35, Ramer teaches a computer-readable medium whose contents configure a computing system to execute a relevance determination system that provides information about determined relevance related to identified themes, by performing a method comprising (computer program that implements the method of indexing content, para [0271], ranking algorithm which incorporates one or more of full-text relevance using, e.g., term frequency/inverse document frequency or variants and enhancements thereto, para [0245]): receiving information about one or more actions of one or more external entities that provide feedback regarding relevance of one or more of the plurality of content items to one or more of the identified themes (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions and/or transactions 234 with the information, Fig. 2, para [0115]); automatically updating the assessed relevance of the at least one content items to the at least one identified themes based at least in part on the feedback provided by the received information (algorithm facility 144 may contain process facilities for analyzing, refining, or filtering user input, ratings obtained from similar users provide the empiric basis for predicting information of relevance to the active user, Fig. 1, para [0080]); and providing information that is based at least in part on the updated assessed relevance of the at least one content items (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]). Ramer does not specifically teach automatically analyzing contents of a plurality of related content items in order to identify multiple themes in the contents and to assess relevance of at least one of the plurality of content items to at least one of the identified themes. However, Kapur teaches automatically analyzing contents of a plurality of related content items in order to identify multiple themes in the contents and to assess relevance of at least one of the plurality of content items to at least one of the identified themes (categorizer 600 receives as input a query, and categorizes the query onto one or more nodes of taxonomy 610, Fig. 6, para [0037], query processing engine allows for the system to implement concept discovery and analysis processes that would enhance the quality of results returned to a user in response to a search query and may be performed by search server 160, Fig. 2, para [0031]-[0032], server system 160 references various collection technologies for populating one or more indexes with pages, links to pages, etc. Such collection technologies include algorithms and interfaces for classifying and ranking web pages within a hierarchical structure such as a taxonomy, Fig. 2, para [0026]). It would have been obvious to one skilled in the art to combine the teachings of Ramer and Kapur since such would have provided a means for analyzing search terms of a query, matching them to related subject areas of interest or categories within a taxonomy, and ranking the results according to relevancy, thereby improving the searcher's ability to select meaningful themes from the search results for further exploration.

Regarding claim 36, Ramer teaches wherein the plurality of content items includes a first group of multiple documents whose contents are representative of a subject area and a second group of multiple documents whose contents are related to the subject area, wherein the automatic analyzing of the contents of the plurality of content items includes analyzing the multiple documents of the first group to identify the multiple themes and includes assessing degrees of relevance of the multiple documents of the second group to a first of the multiple identified themes, wherein the receiving of the information that provides the feedback is in response to providing information to the one or more external entities about at least some of the multiple documents of the second group that are identified as each having an assessed degree of relevance to the first identified theme that satisfies one or more indicated criteria, wherein the at least one content items whose assessed relevance is updated are each one of the multiple documents of the second group, and wherein the providing of the information that is based at least in part on the updated assessed relevance of the at least one content items includes providing information related to one or more of the plurality of content items to at least one entity other than the one or more entities whose actions provide the feedback (sponsored content 220 (i.e. external entities) may also attach to the query 212 and present tailored results 222 (i.e. assessed relevant content) to the user, Fig. 2, para [0114], website may be periodically analyzed for changes in content for purposes of assessing the relevance of keywords previously generated, para [0151]).

Regarding claim 37, Ramer teaches wherein the one or more external entities are each a human user that is not affiliated with the relevance determination system (content available for syndication may derive from a pool of content sponsors participating in a contextual syndication program, para [0131]).

Regarding claim 38, Ramer teaches wherein at least some of the identified multiple themes each includes multiple terms, wherein the automatic analyzing of the contents of the plurality of content items in order to identify the multiple themes in the contents includes, for each of the at least some themes, automatically determining an assessed relevance of the multiple terms included in the theme to each other, wherein the received information further provides feedback regarding relevance of the multiple terms included in one or more of the at least some themes to each other, and wherein the method further comprises automatically updating the assessed relevance of the multiple terms included in each of the one or more themes based at least in part on the feedback further provided by the received information, and providing information that is based at least in part on the updated assessed relevance of the multiple terms included in at least one of the one or more themes (analyze content website to identify keywords that represent relevant terms, automated system may process each page, para [0145], results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions and/or transactions 234 with the information, Fig. 2, para [0115], algorithm facility 144 may contain process facilities for analyzing, refining, or filtering user input, ratings obtained from similar users provide the empiric basis for predicting information of relevance to the active user, Fig. 1, para [0080], suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]).

Regarding claim 39, Ramer teaches wherein the computer readable medium is at least one of a memory of the computing system on which the contents are stored and a data transmission medium that stores a generated signal containing the contents (processes may be realized in hardware, software, or any combination of these suitable for a particular application, computer executable code that may be stored, para [0318]).

Regarding claim 40, Ramer teaches wherein the contents are instructions that when executed cause the computing system to perform the method (process may be realized as computer executable code, para [0318]).

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Regarding claim 41, Ramer teaches a computing system configured to provide information about determined relevance related to identified themes, comprising (processes may be realized in hardware, software, or any combination suitable for a particular application, para [0318]): one or more processors (hardware may include a general purpose computer and/or dedicated computing device. The processes may be realized in one or more microprocessors, para [0318]); and a relevance determination system that is configured to, when executed by at least one of the one or more processors, provide information about determined relevance related to identified themes by: providing information related to one or more of the at least some identified themes to facilitate specification by a first user of at least one theme of interest (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions/transactions 234 with the information, Fig. 2, para [0115]); and after receiving an indication of the at least one theme of interest specified by the first user, providing information for use by the first user that is related to the specified at least one theme of interest (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]). Ramer does not specifically teach automatically analyzing contents of a plurality of related content items in order to identify multiple themes in the contents, at least some of the identified multiple themes each including multiple terms, the identifying of each of one or more of the at least some themes including automatically assessing relevance of the multiple terms included in the theme to each other. However, Kapur teaches automatically analyzing contents of a plurality of related content items in order to identify multiple themes in the contents, at least some of the identified multiple themes each including multiple terms, the identifying of each of one or more of the at least some themes including automatically assessing relevance of the multiple terms included in the theme to each other (categorizer 600 receives as input a query, and categorizes the query onto one or more nodes of taxonomy 610, Fig. 6, para [0037], query processing engine allows for the system to implement concept discovery and analysis processes that would enhance the quality of results returned to a user in response to a search query and may be performed by search server 160, Fig. 2, para [0031]-[0032], server system 160 references various collection technologies for populating one or more indexes with pages, links to pages, etc. Such collection technologies include algorithms and interfaces for classifying and ranking web pages within a hierarchical structure such as a taxonomy, Fig. 2, para [0026]). It would have been obvious to one skilled in the art to combine the teachings of Ramer and Kapur since such would have provided a means for analyzing search terms of a query, matching them to related subject areas of interest or categories within a taxonomy, and ranking the results according to relevancy, thereby improving the searcher's ability to select meaningful themes from the search results for further exploration.

Regarding claim 42, Ramer teaches wherein the at least one theme is specified by the first user based on a selection of the first user from among the one or more identified themes to which the provided information relates, wherein the plurality of related content items includes a first group of multiple documents whose contents are representative of a subject area and a second group of multiple documents whose contents are related to the subject area, wherein the automatic analyzing of the contents of the plurality of content items includes analyzing the multiple documents of the first group to identify the multiple themes and includes assessing degrees of relevance of each of the multiple documents of the second group to the specified at least one theme, and wherein the information provided for use by the first user that is related to the specified at least one theme of interest includes information about at least one of the multiple documents of the second group that is selected based at least in part on the assessed degree of relevance of each of the selected at least one documents to the specified at least one theme (analyze content website to identify keywords that represent relevant terms, automated system may process each page, para [0145], results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions and/or transactions 234 with the information, Fig. 2, para [0115]).

Regarding claim 43, Ramer teaches wherein the providing of the information about the determined relevance related to the identified themes by the relevance determination system further includes: receiving information about one or more actions of one or more users that provides feedback regarding relevance of the multiple terms included in one or more of the at least some themes to each other (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions and/or transactions 234 with the information, Fig. 2, para [0115]); automatically updating the assessed relevance of the multiple terms included in each of the one or more themes based at least in part on the feedback provided by the received information (algorithm facility 144 may contain process facilities for analyzing, refining, or filtering user input, ratings obtained from similar users provide the empiric basis for predicting information of relevance to the active user, Fig. 1, para [0080]); and providing information that is based at least in part on the updated assessed relevance of the multiple terms included in at least one of the one or more themes (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]).

Regarding claim 44, Ramer teaches wherein the provided information related to the one or more themes contains multiple terms that are included in the one or more themes, wherein the one or more users whose actions provide the feedback include the first user, wherein the one or more actions of the one or more users include the selection by the first user from the one or more identified themes, the selection by the first user including a selection of one or more of the multiple terms contained in the provided information, and wherein the providing of the information that is based at least in part on the updated assessed relevance of the multiple terms included in the at least one themes includes providing information related to one or more of the multiple documents of the second group to at least one user other than the one or more users whose actions provide the feedback (sponsored content 220 (i.e. external entities) may also attach to the query 212 and present tailored results 222 (i.e. assessed relevant content) to the user, Fig. 2, para [0114], website may be periodically analyzed for changes in content for purposes of assessing the relevance of keywords previously generated, para [0151]).

Regarding claim 45, Ramer teaches wherein the providing of the information related to the one or more themes includes providing information to the first user about multiple themes from which the first user selects the specified at least one theme of interest (once the results 222 are displayed 232, the user may initiate interactions/transactions 234 with the information (e.g., click on a link), Fig. 2, para [0115]).

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Box V.2. Citations and explanations:

Regarding claim 46, Ramer teaches wherein the automatic analyzing of the contents of the plurality of content items includes assessing relevance of at least one of the plurality of content items to at least one of the identified themes, and wherein the providing of the information about the determined relevance related to the identified themes by the relevance determination system further includes receiving information that provides feedback regarding relevance of one or more of the plurality of content items to one or more of the identified themes, automatically updating the assessed relevance of the one or more content items to the one or more identified themes based at least in part on the feedback provided by the received information, and providing information that is based at least in part on the updated assessed relevance of the one or more content items (analyze content website to identify keywords that represent relevant terms, automated system may process each page, para [0145], suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099], algorithm facility 144 may contain process facilities for analyzing, refining, or filtering user input, ratings obtained from similar users provide the empiric basis for predicting information of relevance to the active user, Fig. 1, para [0080]).

Regarding claim 47, Ramer teaches wherein the relevance determination system includes software instructions for execution by the at least one processors (hardware may include a general purpose computer and/or dedicated computing device. The processes may be realized in one or more microprocessors, process may be realized as computer executable code, para [0318]).

Regarding claim 48, Ramer teaches wherein the relevance determination system consists of a means for providing information about determined relevance related to identified themes, by: automatically analyzing contents of a plurality of related content items in order to identify multiple themes in the contents, at least some of the identified multiple themes each including multiple terms, the identifying of each of one or more of the at least some themes including automatically assessing relevance of the multiple terms included in the theme to each other (analyze content website to identify keywords that represent relevant terms, automated system may process each page, para [0145]); providing information related to one or more of the at least some identified themes to facilitate specification by a first user of at least one theme of interest (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions/transactions 234 with the information, Fig. 2, para [0115]); and after receiving an indication of the at least one theme of interest specified by the first user, providing information for use by the first user that is related to the specified at least one theme of interest. (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099]).

- Please See Next Sheet -

Supplemental Box

In case **the space in any of the preceding boxes is not sufficient.**
Continuation of:
Box V.2. Citations and explanations:

Regarding claim 49, Ramer teaches a computer-implemented method comprising: generating a document relevance neural network that models the assessed relevances of the multiple documents to the identified themes, the document relevance neural network initially modeling the assessed initial relevances (patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, para [0221], ranking algorithm which incorporates one or more of full-text relevance using, e.g., term frequency/inverse document frequency or variants and enhancements thereto, para [0245]); and repeatedly using and updating the assessed relevances that are modeled by the document relevance neural network, by: in response to each of one or more document requests that are each supplied by a user who specifies one of the identified themes, providing results for the user that indicate some of the multiple documents, the some documents being selected based on the assessed relevances that are modeled by the document relevance neural network for the selected documents to the specified theme (algorithm facility 144 may contain process facilities for analyzing, refining, or filtering user input, ratings obtained from similar users provide the empiric basis for predicting information of relevance to the active user, Fig. 1, para [0080]); obtaining feedback from each of one or more of the results that are provided for a document request with a specified theme, the obtained feedback based on one or more interactions of a user with the provided results that enable an inferred assessment of the user of the relevance to the specified theme of at least one of the selected some documents indicated in the provided results (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions/transactions 234 with the information, Fig. 2, para [0115]); and using the obtained feedback to automatically learn improved modeled assessed relevances for the document relevance neural network such that the modeled assessed relevance is updated for each of one or more of the multiple documents to one or more of the identified themes (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099], search function 142 is adapted based on usage patterns, usage patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, Fig. 1, para [0221]). Ramer does not specifically teach under control of one or more computing systems configured to provide a relevance determination service that determines and provides information about documents whose contents are relevant to identified themes, automatically analyzing the contents of a plurality of documents related to a first domain of interest to identify multiple themes that correspond to the first domain of interest and to assess an initial relevance of each of multiple of the plurality of documents to each of the identified themes, each of the identified multiple themes having one or more of a plurality of terms that are present in the contents of the plurality of documents. However, Kapur teaches under control of one or more computing systems configured to provide a relevance determination service that determines and provides information about documents whose contents are relevant to identified themes, automatically analyzing the contents of a plurality of documents related to a first domain of interest to identify multiple themes that correspond to the first domain of interest and to assess an initial relevance of each of multiple of the plurality of documents to each of the identified themes, each of the identified multiple themes having one or more of a plurality of terms that are present in the contents of the plurality of documents (categorizer 600 receives as input a query, and categorizes the query onto one or more nodes of taxonomy 610, Fig. 6, para [0037], query processing engine allows for the system to implement concept discovery and analysis processes that would enhance the quality of results returned to a user in response to a search query and may be performed by search server 160, Fig. 2, para [0031]-[0032], server system 160 references various collection technologies for populating one or more indexes with pages, links to pages, etc. Such collection technologies include algorithms and interfaces for classifying and ranking web pages within a hierarchical structure such as a taxonomy, Fig. 2, para [0026]). It would have been obvious to one skilled in the art to combine the teachings of Ramer and Kapur since such would have provided a means for analyzing search terms of a query, matching them to related subject areas of interest or categories within a taxonomy, and ranking the results according to relevancy, thereby improving the searcher's ability to select meaningful themes from the search results for further exploration.

- Please See Next Sheet -

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:
Box V.2. Citations and explanations:

Regarding claim 50, Ramer teaches wherein the automatic analyzing of the contents of the plurality of documents includes assessing an initial relevance of multiple of the plurality of terms to each other for each of multiple distinct term groups of multiple related terms, wherein at least some of the identified multiple themes each have the multiple related terms of one of the term groups based on those multiple related terms having an assessed initial relevance to each other that exceeds a specified threshold, and wherein the method further comprises: generating a term relevance neural network that models the assessed relevance of the multiple related terms to each other of each of the multiple term groups, the term relevance neural network initially modeling the assessed initial relevances of the multiple related terms for the multiple term groups (patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, para [0221], ranking algorithm which incorporates one or more of full-text relevance using, e.g., term frequency/inverse document frequency or variants and enhancements thereto, para [0245]); obtaining additional feedback for each of one or more of the results that are provided to a user for a document request, the obtained additional feedback based on one or more interactions of the user with the provided results that enable an inferred assessment of the user of the relevance to each other of the multiple related terms for at least one of the multiple term groups, the inferred assessed relevance of the multiple related terms being based at least in part on a relevance of those terms to at least one of the selected some documents indicated in the provided results (results 222 may be ordered 230 prior to display 232, once the results 222 are displayed 232, the user may initiate interactions/transactions 234 with the information, Fig. 2, para [0115]); using the obtained additional feedback to automatically learn improved modeled assessed relevances for the term relevance neural network such that the modeled assessed relevance to each other is updated for the multiple related terms of each of one or more of the multiple term groups; and modifying at least one of the identified multiple themes to reflect the updated modeled assessed relevance of the multiple related terms to each other for at least one of the one or more term groups (suggestions may be generated for display 172, updates may also be provided, additional suggestions may be supplied to users by ranking content, Fig. 1, para [0099], search function 142 is adapted based on usage patterns, usage patterns may be analyzed using various predictive algorithms, such as regression techniques, neural net algorithms, learning engines, Fig. 1, para [0221]).

Regarding claim 51, Ramer teaches wherein the relevance determination service is accessible to users via one or more affiliated services, such that at least some providing of results to users for document requests includes providing those results to the affiliated services which further provide those results to the users, and wherein the relevance determination service is a fee based service that obtains fees from the affiliated services and/or from the users for which the results are provided to document requests (entity associated with a website may be able to opt into an automated syndication program, para [0134], automated syndication program may be a flat fee or revenue sharing program, para [0135]).

Claims 1-51 have industrial applicability as defined by PCT Article 33(4) because the subject matter can be made or used in industry.

9 JUN 2009

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In re Application of	:	
ULTA-LIT TREE CO.	:	DECISION
PCT No.: PCT/US2009/039079	:	
International Filing Date: 01 April 2009	:	
Priority Date Claimed: 02 April 2008	:	
Attorney's Docket No.: 267827-18WO	:	
For: SYSTEM AND METHOD FOR PREVENTING	:	
THE LOSS OF PROPERTY	:	

This decision is in response to applicants' petition under 37 CFR 1.181 filed 07 May 2009. No petition fee is due.

BACKGROUND

On 01 April 2009, at 12:56:11, applicants filed a Request for a new PCT international application and a fee worksheet. These papers were assigned international application number PCT/US09/39078 (the '078 application)

On 01 April 2009, at 13:02:05, applicants filed a Request for a new PCT international application, description, claims, drawings, abstract, and fee worksheet. These papers were assigned international application number PCT/US09/39079 (the '079 application).

On 10 April 2009, in the '079 application, 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 April 2009.

On 07 May 2009, in the '079 application, applicants filed the instant petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the papers in the '078 application be transferred to the '079 application and that all fees paid in the '078 application be refunded. It is urged that the RO/US inadvertently made a second application.

Applicants filed two separate requests for an international application on 01 April 2009. There is nothing in the second filing on 01 April 2009 (the '079 application) that suggests it is a duplicate or a follow-on paper(s) to the '078 application. Accordingly, it was proper to assign two different application numbers. The charging of fees in both application was also proper since both submissions included an authorization to charge fees to a Deposit Account. Thus, no refund is due.

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
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Office of Patent Cooperation Treaty
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22 MAR 2010

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CONVATEC INC.
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SKILLMAN NJ NEW JERSEY 08558

In re Application of	:	
CONVATEC TECHNOLOGIES INC.	:	DECISION
PCT No.: PCT/US2009/039759	:	
Date of Receipt: 07 April 2009	:	
Priority Date Claimed: 04 April 2008	:	
Attorney's Docket No.: CV0416PCT	:	
For: DRAINABLE OSTOMY POUCH	:	

This decision is response to applicants' submissions filed in the United States Patent and Trademark Office (USPTO) on 21 August 2009 and 14 December 2009.

On 07 April 2009, applicant filed the above captioned PCT application in the United States Receiving Office (RO/US) accompanied by a request to restore priority.

On 19 May 2009, the RO/US mailed a NOTIFICATION OF INTENDED REFUSAL OF REQUEST TO RESTORE RIGHT OF PRIORITY AND/OR INVITATION TO FURNISH DECLARATION OR OTHER EVIDENCE (Form PCT/RO/158) indicating, inter alia, that the request for the restoration of priority filed 07 April 2009 did not include the statement of reasons (i.e., a statement that the delay in filing the international application was unintentional) for the failure to file the international application within the priority period. It was also noted that the time limit for providing the requisite statement expired 04 June 2009.

On 21 August 2009, applicants filed a "RESPONSE TO NOTIFICATION OF REFUSAL OF PRIORITY CLAIM" requesting a three-month extension of time to provide the statement and including a statement that the delay in filing the international application was unintentional.

On 14 December 2009, applicants filed a "RESPONSE TO NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY" including a statement of reasons for the delay in filing the international application.

As noted in the Form PCT/RO/158 mailed 19 May 2009, the time period for providing a statement of unintentional delay expired 04 June 2009. The time period is not extendable. Accordingly, the petition to restore the right of priority under PCT Rule 26*bis*.3 is **REFUSED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

/Daniel Stemmer/

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Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

CC: International Bureau of WIPO

Enc.: NOTIFICATION OF DECISION ON REQUEST TO RESTORE RIGHT OF PRIORITY (Form PCT/RO/159)

24 MAY 2010

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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KAREN K. WONG
WILSON SONSINI GOODRICH & ROSATI
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PALO ALTO CA 94304-1050

In re Application of	:	
AMYRIS BIOTECHNOLOGIES, INC.	:	DECISION ON REQUEST
PCT No.: PCT/US2009/039769	:	
Int. Filing Date: 07 April 2009	:	FOR WITHDRAWAL
Priority Date: 08 April 2008	:	
Attorney's Docket No.: 33934-721601	:	AS ATTORNEY
For: EXPRESSION OF HETEROLOGOUS SEQUENCES	:	

This is in response to the "REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT" (Form PTO/SB/83) filed 18 March 2010. Karen K. Wong has requested that the practitioners of record associated with Customer No. 21971 be withdrawn as attorney or agent of record and that the correspondence address be changed. No fee is required.

The request to withdraw as attorney of record is **DISMISSED** as **MOOT**. The practitioners associated with Customer No. 21971 have not been granted Power of Attorney to act as applicant's representative and thus have no need to obtain the Office's permission to withdraw from representation.

The correspondence address, however, has been changed to the address indicated in the Form PTO/SB/83 filed 18 March 2010.

/Daniel Stemmer/

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CC: AMYRIS BIOTECHNOLOGIES, INC.
c/o ROBERT TRAVER
SHERIDAN ROSS P.C.
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1 4 JUL 2009

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LUCINDA ALTHAUSER
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SAINT LOUIS MO MISSOURI 63102

In re Application of:
ALEXANDER, Anthony
PCT No.: PCT/US2009/041694
Receipt Date: 24 April 2009
Priority Date: None
Atty Docket No.: 0232308
For: SYSTEMS AND METHOD OF ANCHORING SURGICAL WIRES, CATHETERS, AND OTHER MEDICAL OBJECTS

DECISION

This decision is issued in response to the "Request For Refund Of Fees" and the "Notice of Withdrawal" filed 22 May 2009. No petition fee is required.

BACKGROUND

On 24 April 2009, applicant filed materials to initiate the present international application via the EFS-Web electronic filing system. The submission included the following materials: Form PTO-1382 Transmittal Letter identifying the submission as a new international application; PCT Request (Form PCT/RO/101); PCT Fee Calculation Sheet authorizing the USPTO to charge Deposit Account No. 02-4467 for required fees; description (21 pages); claims (five pages), drawings (five pages), and abstract (one page).

On 08 May 2009, 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 confirming that the record copy of the application was transmitted to the International Bureau (IB) on 08 May 2009, and a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) confirming that applicant had been charged the $3,316 in fees required herein (the fees had been charged to Deposit Account No. 02-4467 pursuant to the authorization contained in the application papers). Also on 08 May 2009, the United States International Searching Authority (ISA/US) mailed a "Notification Of Receipt Of Search Copy" (Form PCT/ISA/202) confirming that the search copy was received by the ISA/US on 08 May 2009.

On 22 May 2009, applicant filed the "Request For Refund Of Fees" and the "Notice Of Withdrawal" (Form PCT/IB/372) considered herein. The request for refund seeks a refund of all the fees paid herein. The Notice of Withdrawal (which applicant indicates was also filed directly with the IB) requests withdrawal of the international application.

On 19 June 2009, the ISA/US mailed an International Search Report (Form PCT/ISA/210) and the "Written Opinion Of International Searching Authority" (PCT/ISA/237).

DISCUSSION

1. Request For Refund

The present application was properly filed on 24 April 2009. The submission included all the requirements for an international application, and it authorized a charge to Deposit Account No. 02-4467 for the fees applicable to such an application. Pursuant to the authorization and applicant's submission, Deposit Account No. 02-4467 was charged the applicable fees, specifically, $240 transmittal fee, $2,080 search fee, $936 international fee, and $60 supplemental fee for inclusion of additional pages over thirty.

In the present submission, applicant requests a refund of all the fees paid herein. The request indicates that applicant had included an incorrect set of drawings with the present application and had therefore filed a second international application with the correct drawings, intending to allow the present application to be deemed withdrawn for failure to pay the applicable fees. Applicant indicates that an effort was made during the filing process to select non-payment of fees, but, as noted above, the materials filed by applicant did include a valid authorization to charge Deposit Account 02-4467 for applicable and appropriate fees.

Under the present circumstances, a refund of the fees properly paid herein is not appropriate. The PCT does not include a provision for refund of the $240 transmittal fee under any circumstances. With respect to the international and search fee, PCT Rule 15.6 states that a refund of the international fee is only appropriate if the application is unacceptable under PCT Article 11(1), the application is withdrawn prior to the transmittal of the record copy to the IB, or the application is subject to national security prescriptions. Similarly, PCT Rule 16.2 states that a refund of the search fee is only applicable if the application is unacceptable under PCT Article 11(1), the application is withdrawn prior to the transmittal of the search copy to the ISA, or the application is subject to national security prescriptions. The present application satisfies the requirements of PCT Article 11(1), is not subject to national security prescriptions, and was not withdrawn prior to the transmittal of the record copy to the IB and the search copy to the ISA on 08 May 2009. Accordingly, a refund of the international or search fees is not appropriate under PCT Rules 15.6 and 16.2.

37 CFR 1.446 (a) provides that "[m]oney 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." However, the fees charged to applicant here are the appropriate and required fees for the present international application, as authorized by applicant in the filed application materials. The fees therefore do not constitute "a payment not required by law or treaty" for which a refund might be appropriate.

2. Notice Of Withdrawal

The "Notice of Withdrawal" (Form PCT/IB/372) filed herein on 22 May 2009 requests withdrawal of the present international application pursuant to PCT Rule 90bis.1. The form appears to have been executed by Lucinda Althauser, the agent who signed the PCT Request (Form PCT/RO/101) filed 24 April 2009, and it identifies Ms. Althauser as the "appointed agent." 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, Lucinda Althauser has not submitted a power of attorney from the applicant appointing her as agent herein. Accordingly, on the present record, Lucinda Althauser is not the "appointed agent" in the present application, and the request for withdrawal of the international application is therefore properly dismissed.

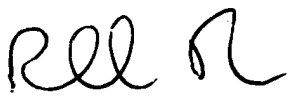
CONCLUSION

Based on the above, the "Request For Refund Of Fees" and the "Notice Of Withdrawal" requesting withdrawal of the international application are **DISMISSED** without prejudice.

Any request for reconsideration on the merits with respect to the "Request For Refund Of Fees" must be submitted within **TWO (2) MONTHS** of the mail date of this decision. Any such submission must include a showing that a refund of the fees paid herein is appropriate under the PCT and the applicable statutes and regulations.

With respect to the request to withdraw the international application, an acceptable power of attorney executed by the applicant appointing Lucinda Althauser as agent of record herein must be submitted before the present request to withdraw the international application can be effective.

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



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25 AUG 2009

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In re Application of	:	
UNIVERSITY OF SOUTHERN CALIFORNIA	:	DECISION ON PETITION
PCT No.: PCT/US09/41723	:	
Int. Filing Date: 24 April 2009	:	TO VACATE NOTIFICATION
Priority Date: None	:	
Attorney Docket No.: USC 09-348	:	OF WITHDRAWAL OF
For: OCULAR IMAGING SYSTEM	:	
	:	INTERNATIONAL APPLICATION

This is a decision on applicant's submission filed on 11 August 2009, entitled "Petition to Vacate Withdrawal of International Application Pursuant to PCT Rule 16bis.1(e) and US Rule 37 CFR 1.181". The submission requests withdrawal of the 07 August 2009 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117). No petition fee is required. As discussed below, the petition to vacate the notification of withdrawal of international application is **granted**.

BACKGROUND

On 24 April 2009, applicant filed international application No. PCT/US09/41723, which made no claim to priority.

On 05 May 2009, a Notification Concerning Payment of Prescribed Fees (PCT/RO/102) was mailed to applicant, indicating that the Receiving Office has received no or insufficient payment of the prescribed fees in the amount of $3256 and advised that the fees must be paid within one month from the date of receipt of the international application (for the transmittal fee, search fee and the international filing fee).

On 19 June 2009, the United States Receiving Office (US/RO) mailed an Invitation to Pay

Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133) to applicant. Applicant was advised to pay the fees totaling $3,807.00 ($3,256 for total unpaid fees, $551.00 for late payment fee). The fees were to be paid within one month of the notice or by 19 July 2009.

On 03 August 2009, applicant filed an electronic payment of the prescribed fees including the late payment fee.

On 07 August 2009, a Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was mailed to applicant indicating that the international application was considered withdrawn for failure to pay the prescribed fees. The Notification indicated that "within the time limit referred to in that invitation [Form PCT/RO/133]: no fees have been paid".

On 11 August 2009, applicant filed the instant petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) as all fees were paid prior to the 07 August 2009 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) was mailed. Applicant requests that the PCT/RO/117 be vacated.

DISCUSSION

Under PCT Rule 16*bis*.1(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)."

Pursuant to PCT Article 14(3) and Rule 16bis.1(c), if the transmittal fee, the international filing fee and the search fee are not paid 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. **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.** PCT Applicant's Guide, ¶213.

A review of the application file reveals that on 03 August 2009, the USPTO received payment of all prescribed fees due in PCT/US09/41723 including the late payment fee of $551. Since all prescribed fees and the late payment fee were paid and received prior to the mailing of the PCT/RO/117, the international application is not considered to be withdrawn by the US Receiving Office. The 07 August 2009 Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) is hereby vacated.

CONCLUSION

The petition to vacate the Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) under 37 CFR 1.181 is **GRANTED**. The Notification That International Application Considered to be Withdrawn (Form PCT/RO/117) mailed on 07 August 2009 is **VACATED**.

The application will be forwarded to the United States Receiving Office for further processing in accord with this decision. PCT/US09/41723 is not considered to have been withdrawn due to failure to pay prescribed fees including the late payment fee of $551.

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27 MAY 2009

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In re Application of
Dentatek Corporation, et al
PCT No.: PCT/US2009/043386
Int. Filing Date: 08 May 2009
Priority Date: 09 May 2008
Atty. Docket No.: DNTEK.012VPC
For: Apparatus and Methods for Root Canal Treatments

DECISION ON PETITION

This is in response to the "Petition to Correct International Searching Authority" filed 11 May 2009, which is being treated under 37CFR1.182. The authorization to charge deposit account of the requisite petition fee has been received.

BACKGROUND

On 08 May 2009, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned International Application No. PCT/US2009/043386.

On 11 May 2009, applicant filed Petition to Correct International Searching Authority (ISA).

DISCUSSION

The petition requests that the International Searching Authority (ISA), be changed from EP to US. As the PCT and PCT regulations do not specifically provide for a change in the ISA after the international application has been filed such a request may only be considered upon petition under 37 CFR 1.182. Such a petition will only be granted if the Search Copy has not yet been forwarded to the International Searching Authority. In the present case because the search copy has not yet been forwarded to the International Searching Authority (ISA/EP); the change will be permitted. The petition fee of $400.00 has been charged to Deposit Account No. 11-1410.

CONCLUSION

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

Please direct further correspondence with respect to the Commissioner for Patents, Mail Stop PCT, PO 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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Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

17 FEB 2010

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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In re Application of UNIVERSITY OF GEORGIA RESEARCH FOUNDATION
PCT Application No.: PCT/US2009/044818
Int. Filing Date: 21 May 2009
Priority Date Claimed: 22 May 2008
Attorney Docket No.: 36643-00028
For: POULTRY VIRAL MATERIALS AND METHODS RELATED THERETO

DECISION

This is in response to applicant's petition under 37 CFR 1.181 filed 30 September 2009.

BACKGROUND

On 21 May 2009, 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 June 2009, 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 31 July 2009, the ISA/US mailed a Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority (Form PCT/ISA/220), a Declaration of Non-Establishment of International Search Report (Form PCT/ISA/203), and a Written Opinion of the International Searching Authority (Form PCT/ISA/237).

On 30 September 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

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 includes a statement from the practitioner that Form PCT/ISA/225 was never received and that a search of the practitioner's records, including any file jacket or equivalent, revealed that Form PCT/ISA/225 was not received. However, petitioner has not provided a statement describing the firm's system for recording an Office action received at the correspondence address of record, establishing that the system is sufficiently reliable. Furthermore, the copy of the individual attorney docket report supplied with the petition does not appear to be a master docket record for the practitioner's firm. Thus, it would not be reasonable to conclude at the present time that Form PCT/ISA/225 was not received.

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".

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

Bryan Lin
PCT Legal Examiner
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22 MAR 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL J. HENRY
38500 WOODWARD AVENUE
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BLOOMFIELD HILLS MI 48304-5048

In re Application of	:	
PROVO CRAFT AND NOVELTY, INC.	:	DECISION
PCT No.: PCT/US2009/046009	:	
International Filing Date: 02 June 2009	:	
Priority Date Claimed: 02 June 2008	:	
Attorney's Docket No.: 216683-126115	:	
For: CARTRIDGE SYSTEM	:	

This decision is in response to applicants' "REQUEST TO RESTORE THE RIGHT OF PRIORITY" filed 19 January 2010, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 02 June 2009, applicants filed international application papers including a Request, description, claims, drawings, and abstract. These papers were assigned international application number PCT/US2009/046009.

On 12 June 2009, 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 as 02 June 2009.

On 12 June 2009, 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, *inter alia*, that page 1 of the description was or appeared to be 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 received that part (PCT Rule 20.5(c)).

On 13 August 2009, applicants filed, *inter alia*, the first page of the description.

On 21 August 2009, the RO/US 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 fo 12 months preceding the international filing date.

On 21 September 2009, 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 13 August 2009 which is on a date later than the date on which one or more elements referred to in Article 11(1)(iii) were first received by the RO/US. The Notification also indicated the international filing date as 13 August 2009.

On 04 May 2009, applicant submitted the instant petition under 37 CFR 1.181.

DISCUSSION

The petition requests that (1) the international filing date be restored to 02 June 2009 because the later-filed first page of the specification is identical to the first page of the priority document, or alternatively, that (2) the later-filed first page of the specification be disregarded and the international filing date be restored to 02 June 2009.

As to (1), as noted in the RO/126 mailed 12 June 2009, applicant had two months from the date of mailing of the RO/126 to confirm in accordance with Rule 20.6(a) that the missing page was incorporated by reference under Rule 4.18. However, the missing page was not submitted within that time period. (The missing page was filed 13 August 2009, which was one day after the time period expired.)

As to (2), the RO/126 mailed 21 September 2009 was incorrect in identifying the international filing date as 13 August 2000. Pursuant to Administrative Instruction 310*ter*, where later submitted sheets are received after the expiration of the applicable time limit referred to in Rule 20.7, the later submitted sheets will not be considered for the PCT procedure. The page of the description filed 13 August 2009 has been marked "NOT TO BE CONSIDERED (RULE 20.7)" and the International Bureau has been notified accordingly.

CONCLUSION

The international filing date of the above-identified international application is 02 June 2009. The page of the description filed 13 August 2009 (page 1 of the description) will not be considered for the PCT procedure.

For the reasons set forth above, Form PCT/RO/110 mailed 21 August 2009 is hereby VACATED.

For the reasons set forth above, Form PCT/RO/126 mailed 21 September 2009 is hereby VACATED.

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED-IN-PART** to the extent that applicant's alternative request that the later-filed first page of the specification be disregarded and the international filing date be restored to 02 June 2009 is GRANTED.

/Daniel Stemmer/

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

Enc: Page 1 of description filed 13 August 2009 marked "NOT TO BE CONSIDERED (RULE 20.7)"

cc: International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

16 SEP 2009

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In re Application of:	:	
NEOPROBE CORPORATION	:	DECISION
PCT No.: PCT/US2009/48644	:	
International Filing Date: 25 June 2009	:	
Priority Date: 25 June 2008	:	
Atty Docket No.: E78010.003PC	:	
For: SURGICAL PROBE APPARATUS AND SYSTEM	:	

This is in response to applicant's "Reply To Invitation To Correct Priority Claim" filed 18 August 2009, treated herein as a petition for acceptance of the priority claim directed to U.S. application number 12/491,505. No petition fee is required.

BACKGROUND

On 25 June 2009, applicant filed the present international application in the United States Receiving Office (RO/US). The international application claimed priority to a U.S. provisional application filed on 25 June 2008 (U.S. Application No. 61/075,531) and a U.S. non-provisional application filed on 25 June 2009 (U.S. Application No. 12/491,505).

On 08 July 2009, the RO/US issued 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 claim of priority directed to U.S. application number 12/491,505 was defective in that the filing date for the earlier application does not fall within the period of 12 months preceding the international filing date.

On 18 August 2009, applicant filed the "Reply To Invitation To Correct Priority Claim" considered as a petition herein. The petition argues that the priority claim directed to U.S. application number 12/491,505, an application filed on the same date as the present international application, should be accepted by the RO/US.

DISCUSSION

PCT Rule 4.10(a) states, in pertinent part (emphasis added):

> Any declaration referred to in Article 8(1) (priority claim) may claim the priority of one or more **earlier** applications filed either in or for any country party to the Paris Convention for the Protection of Industrial Property or in or

> for any Member of the World Trade Organization that is not party to that Convention.

The Receiving Office Guidelines at Chapter VII Priority Claims and Priority Documents, Requirements for Priority Claims, 166(d), provide further guidance regarding Rule 4.10. Section 166(d) states that "PCT Article 8(2)(a) and Article 4C(1) of the Paris Convention require that **the date on which the earlier application was filed must be a date falling within the period of 12 months preceding the international filing date**" (emphasis added). Furthermore, the Notes to the Request Form for Box VI, which explain Priority Claim(s) under Rule 4.10, warn applicants: "Note that that date must fall within the period of 12 months preceding the international filing date."

It is also noted that under 37 CFR 1.6(a), correspondence filed in the United States Patent and Trademark Office (USPTO) is stamped with a *date* of receipt. The Office does not maintain procedures to track the order in which applications are filed within a day, nor does benefit attach to the order of application filing within a day. As such, an application with the same filing date as another application cannot be considered a prior application.

Based on the above, and in accord with the provisions of the Paris Convention, the Patent Cooperation Treaty, and the Receiving Office Guidelines, the USPTO has consistently held that an application must be filed at least one day prior to the international filing date to be considered a priority application. In the present case, the international application and U.S. application number 12/491,505 were filed in the USPTO on the same date, 25 June 2009. Application number 12/491,505 is therefore not an *earlier* application filed within the 12 months preceding the international filing date to which priority can be properly claimed under PCT Rule 4.10(a).

CONCLUSION

For the reasons above, the petition for acceptance of the priority claim directed to U.S. application number 12/491,505 is **DISMISSED** without prejudice.

The application is being referred to the RO/US for further processing in accordance with this decision.

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17 JUN 2010

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FENWICK & WEST LLP
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MOUNTAIN VIEW, CA 94041

In re Application of :
YOUNOODLE, INC. :
PCT No.: PCT/US2009/052747 :
International Filing Date: 04 August 2009 : DECISION ON PETITION
Priority Date: 04 August 2008 :
Atty. Docket No.: 15863 PCT : UNDER 37 CFR 1.181
For: ENTITY PERFORMANCE ANALYSIS ENGINES:

This decision is in response to applicant's correspondences filed 20 January 2010 and 12 February 2010 in the United States Patent and Trademark Office (USPTO). The papers are being treated as unsigned petitions under 37 CFR 1.181 for re-issuance of the international search report and written opinion.

BACKGROUND

On 04 August 2009, applicant filed the above-captioned international application and selected the United States as the international searching authority.

On 06 November 2009, applicant was mailed an international search report and written opinion of the international searching authority. (See Forms PCT/ISA/210, PCT/ISA/220 and PCT/ISA/237).

On 20 January 2010 and 12 February 2010, applicant filed the paper discussed herein seeking a re-issuance of the forms "to include the mailing date."

DISCUSSION

It is noted that pursuant to 37 CFR 1.33 and 1.34 all petitions must be signed by a registered practitioner.

As to the request for a re-issuance of the forms, PCT Rule 54*bis*.1 states:

(a) A demand may be made at any time prior to the expiration of whichever of the following periods expires later:

(i) three months from the date of transmittal to the applicant of the international search report or the declaration referred to in Article 17(2)(a), and of the written opinion established under Rule 43bis.1; or

(ii) 22 months from the priority date.

A review of the application file finds that the "Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration" (Form PCT/ISA/220) contains a date of mailing of "06 NOV 2009." The "Written Opinion of the International Searching Authority" (Form PCT/ISA/237) contains the same date. Thus, applicant was made aware of the date of transmittal of the reports for the purposes of timely filing a Chapter II Demand. In order for the forms to be re-issued with a new mail date applicant would need to provide copies of the Forms PCT/ISA/220 and PCT/ISA/237 showing the forms without a date of mailing.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 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 or electronically filed utilizing the USPTO's EFS-Web electronic filing system.

Derek A. Putonen
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26 AUG 2009

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Kansas City, MO 64112

In re Application of	:	
CREIGHTON UNIVERSITY	:	
PCT No.: PCT/US09/53155	:	DECISION ON PETITION
Int. Filing Date: 07 August 2009	:	UNDER 37 CFR 1.182
Priority Date: 15 April 2009	:	
Agent's File Ref. No.: 051841-402227PCT	:	
For: CALENDAR SYSTEM	:	

This decision is in response to applicants' 12 August 2009 request to change the International Searching Authority (ISA) in the present international application from the United States Patent and Trademark Office to the European Patent Office

The requisite $400 petition fee, inter alia, was charged to counsel's Deposit Account No. 50-1662 as authorized.

On 07 August 2009, applicants filed international application PCT/US09/53155. The REQUEST in Box No. VII, "International Searching Authority" indicates the ISA/US as the ISA for the present international application.

On 12 August 2009, applicants filed the present petition requesting that the ISA for international application PCT/US09/53155 be changed from the ISA/US to the ISA/EP.

A review of the application file reveals that the United States Receiving Office (RO/US) has not transmitted the search copy of the present international application to the International Searching Authority. Therefore, applicants' petition under 37 CFR 1.182 to change the ISA in the present application from the ISA/US to the ISA/EP is hereby **GRANTED.**

The present application is being returned to the RO/US for Chapter I processing. The

search copy will be sent to the ISA/EP in due course.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

JSF/BL:jf

Jeremy Fleming
Paralegal Specialist
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24 MAY 2010

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In re Application of	:	
MAG INSTRUMENT, INC.	:	DECISION
PCT No.: PCT/US2009/053239	:	
Date of Receipt: 08 August 2009	:	
Priority Date Claimed: 08 August 2008	:	
Attorney's Docket No.: 728256228329	:	
For: PORTABLE LIGHTING DEVICES	:	

This is in response to applicant's petition under 37 CFR 1.181 filed 10 December 2009 to reissue the International Search Report and the Written Opinion of the International Searching Authority to include Groups II and III as well as Group I. No petition fee is required.

BACKGROUND

On 08 August 2009, applicant filed international application papers including a Request, description, claims, abstract, and drawings with the United States Receiving Office (RO/US). The submission was assigned International Application Number PCT/US2009/053239.

On 09 September 2009, the United States International Searching Authority (ISA/US) mailed an INVITATION TO PAY ADDITIONAL FEES AND, WHERE APPLICABLE, PROTEST FEE (Form PCT/ISA/206). The INVITATION set forth three additional inventions (for a total of four Groups–Groups I, II, III, and IV) and set a one-month period for reply.

On 09 October 2009, applicant filed a submission including an election of Groups I, II, and III and authorization to charge the additional fees of $4,160 to Deposit Account 50-2468.

On 03 December 2009, the ISA/US mailed an International Search Report and a Written Opinion of the International Searching Authority covering only Group I.

On 10 December 2009, applicant filed the instant petition under 37 CFR 1.181.

DISCUSSION

Applicant's response to the INVITATION TO PAY ADDITIONAL FEES was timely. Accordingly, the International Search Report and the Written Opinion mailed 03 December 2009 should have covered Groups II and III as well. Deposit Account 50-2468 has now been charged $4,160.

CONCLUSION

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

This application is being forwarded to the ISA/US for further processing in accordance with this decision, including preparation and mailing of a new International Search Report and Written Opinion covering Groups I, II, and III.

/Daniel Stemmer/

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UNITED STATES PATENT AND TRADEMARK OFFICE

25 SEP 2009

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ALCOA CENTER, PA 51803

In re Application of ALCOA INC. :
PCT Application No.: PCT/US2009/053428 :
Int. Filing Date: 11 August 2009 : DECISION
Priority Date Claimed: 12 August 2008 :
Attorney Docket No.: CLP-07-0017 :
For: ALUMINUM ALLOYS FOR DISPLAY FRAMES :

This is in response to applicant's petition under 37 CFR 1.182 filed 21 August 2009.

BACKGROUND

On 11 August 2008, 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 21 August 2009, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The present petition requests that the International Searching Authority be changed from the United States to the European Patent Office. The PCT does not specifically provide for a change in the International Searching Authority (ISA) upon request. Furthermore, a review of the present application file reveals that the ISA/US has already completed the International Search Report and Written Opinion of the International Searching Authority. Therefore, a change in the International Searching Authority at the present time would not be appropriate.

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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182".

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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30 OCT 2009

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ALCOA CENTER, PA 51803

In re Application of ALCOA INC. :
PCT Application No.: PCT/US2009/053428 :
Int. Filing Date: 11 August 2009 : DECISION
Priority Date Claimed: 12 August 2008 :
Attorney Docket No.: CLP-07-0017 :
For: ALUMINUM ALLOYS FOR DISPLAY FRAMES :

This is in response to applicant's renewed petition under 37 CFR 1.182 filed 30 September 2009.

BACKGROUND

On 11 August 2009, 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 21 August 2009, applicant filed a petition under 37 CFR 1.182 to change the International Searching Authority.

On 25 September 2009, this Office mailed a decision dismissing the 21 August 2009 petition.

On 30 September 2009, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The present renewed petition requests that the International Searching Authority (ISA) be changed from the United States to the European Patent Office. The renewed petition states that the 25 September 2009 decision incorrectly indicated the International Filing Date as 11 August

2008, that applicant filed the request to change the ISA on 21 August 2009, and that applicant is unaware of any International Search Report or Written Opinion having been mailed. It is noted that the International Filing Date was correctly indicated as 11 August 2009 in the heading of the 25 September 2009 decision. Moreover, the fact that the original petition was filed shortly after the International Filing Date is not determinative. The PCT does not specifically provide for a change in the International Searching Authority (ISA) upon request, and applicant is not entitled to such a change as a matter of right. The fact that the International Search Report and Written Opinion had already been issued[1] at the time applicant's petition was decided makes a change in the ISA inappropriate in the present case.

CONCLUSION

For the reasons above, the renewed 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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182".

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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[1] Mailing date of 24 September 2009.

2 4 JUN 2010

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ADAM M. BRAMWELL
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SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

In re Application of	:	
TIMBERWOLF Corporation	:	
PCT No.: PCT/US2009/054460	:	DECISION ON
Int. Filing Date: 20 August 2009	:	
Priority Date: 29 August 2008	:	PETITION
Attorney's Docket No.: 186256/PCT/2	:	
For: MULTI-LAYERED COMPOSITE SYSTEM AND METHOD	:	UNDER 37 CFR 1.181

This decision is on applicants' Petition and Request For Refund, filed in the United States Receiving Office on 22 January 2010.

BACKGROUND

On 20 August 2009, applicants submitted to the United States Receiving Office (RO/US), *inter alia*, a Request, description, claims, abstract, drawings, and a Fee calculation sheet. The Fee Calculation Sheet provided "authorization to charge the total fees indicated above," and "authorization to charge any deficiency," listed the deposit account no. as 04-1420 and was signed by Adam Bramwell.

On 27 August 2009, RO/US mailed, 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). The Notification indicated that fees had not been paid.

On 20 October 2009, RO/US mailed Invitation to Pay Prescribed Fees Together With Late Payment Fee (Form PCT/RO/133), which indicated that applicants had an outstanding balance of $4066.50 and that applicant had one month from mailing to pay the fees together with late payment fee or the application would be withdrawn.

On 08 December 2009, the Office charged the outstanding fees to the deposit account and mailed Notification of Receipt of Search Copy (Form PCT/ISA/202).

On 22 January 2010, applicants filed this request for a refund.

DISCUSSION

Applicant owed fees in this application and authorized payment of those fees. The Notification Concerning Payment of Prescribed Fees and Invitation to Pay Prescribed Fees Together With Late Payment Fee both stated that applicant had not paid fees, but a review of

the paperwork indicates otherwise. They issued in error. The fees were paid effective 20 August 2009.

As applicant claims to have desired to withdraw this application, applicant needed to file a withdrawal request under PCT Rule 90*bis*.1 and a request to refund surplus fees signed by the three applicants or by an agent or common representative appointed in accordance with PCT Rule 90. At this point, the application processing has progressed, with the search copy having been forwarded to the search authority. At this point, no fees are eligible for refund.

CONCLUSION

For the reasons set forth above, the request for the refund of fees paid in the international application is **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.

The application is being returned to the RO/US for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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01 MAR 2010

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AUSTIN TX TEXAS 78701

In re Application of :
ARIZONA BOARD OF REGENTS :
PCT No.: PCT/US2009/055237 : DECISION ON PETITION
Int. Filing Date: 27 August 2009 :
Priority Date: 27 August 2008 : UNDER 37 CFR 1.181
Attorney's Docket No.: AZTE:043WO :
For: A DNA REPLICON SYSTEM FOR HIGH-LEVEL :
RAPID PRODUCTION OF VACCINES AND :
MONOCLONAL ANTIBODY THERAPEUTICS :
IN PLANTS :

This is a decision on applicant's "COMMUNICATION REGARDING PETITION 37 CFR 1.181" filed 07 October 2009 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 August 2009, applicant filed the above-captioned international application in the USPTO. The international application claimed priority to an earlier United States application filed 27 August 2008.

The United States Receiving Office accorded an international filing date of 27 August 2009 to the above-identified international application. (See "Notification of The International Application Number And of The International Filing Date" (Form PCT/RO/105) mailed 09 September 2009). In addition, on 09 September 2009, applicant was mailed an "Notification Concerning Payment of Prescribed Fees" (Form PCT/RO/102) which listed the above international application number and showed a balance due of $0.00.

On 18 September 2009, applicant was mailed a Form PCT/RO/102 which identified the international application as PCT/US2009/055236 and showed a balance due of $4450.00.

On 07 October 2009, applicant filed the petition discussed herein.

DISCUSSION

It appears from a review of USPTO records that an additional international application number, PCT/US2009/055236, was created during the filing of the application prior to payment of the international application fees. This international application has subsequently been

withdrawn. Therefore, it is proper to grant applicant's petition under 37 CFR 1.181. The international search report for the above-captioned international application was mailed on 21 October 2009 and applicant should continue to reference international application number PCT/US2009/055237 in all future communications and national stage entries.

CONCLUSION

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

This application is being returned to the Office of PCT Operations for continued processing.

Derek A. Putonen
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Tel: (571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

12 MAY 2010

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NEW YORK NY NEW YORK 10008-0770

In re Application of :
ZORAN CORPORATION :
PCT No.: PCT/US2009/055265 :
Int. Filing Date: 27 August 2009 :
Priority Date: 28 August 2008 : DECISION
Atty. Docket No.: 2211536-WO0 :
For: ROBUST FAST PANORAMA :
STITCHING IN MOBILE PHONES :
OR CAMERAS :

This is a decision on applicant's "REQUEST FOR REFUND" filed in the U.S. Patent and Trademark Office (USPTO) on 11 September 2009. The request is **GRANTED** as discussed below.

On 27 August 2009, applicant filed international application No. PCT/US2009/055265.

A review of the application file and USPTO fee records indicates that upon initial filing applicant paid a search fee of $2080, but indicated the incorrect fee code for the fee, and that on 02 September 2009, the United States Receiving Office charged a second search fee of $2080 to counsel's deposit account under the correct fee code.

As such, applicant is entitled to the requested refund as fees paid in excess. Counsel's deposit account has been credited in the amount of $2080.

Richard R. Cole
Senior PCT Legal Examiner
Office of PCT Legal Administration

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- 9 NOV 2009

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DAVID R. STEVENS
STEVENS LAW GROUP
1754 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CALIFORNIA 95110

In re Application of :
KESANUPALLI :
PCT No.: PCT/US09/58107 :
Int. Filing Date: 23 September 2009 : DECISION
Priority Date: 16 September 2008 :
Attorney's Docket No.: VLID-05301 WO :
For: FINGER PRINT SENSOR DEVICE AND :
SYSTEM WITH VERIFICATION TOKEN AND :
METHODS OF USING :

The request for refund filed 20 October 2009 in the above-captioned application is hereby **GRANTED**.

A review of international application PCT/US09/58017 finds that the fee for consideration of the request for restoration of priority was erroneously charged twice to applicant's deposit account. As such, the requested $1410.00 will be refunded to deposit account number 50-2421.

A form PCT/RO/159 regarding the request for restoration of priority accompanies this decision.

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Encl: Form PCT/RO/159

13 JAN 2010

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Boris Leschinsky
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Waldwick, New Jersey 07463

In re Application of:	:	
PRESSURE PROFILE SYSTEM, INC.	:	
PCT No.: PCT/US2009/059462	:	DECISION
Inter. Filing Date: 03 October 2009	:	
Priority Date: 06 October 2008	:	
Attorney's Docket No.: PPS-8-PCT	:	
For: CAPACITIVE TACTILE TILE SENSOR	:	

This decision is issued in response to applicant's "Petition for Change of International Searching Authority" filed 16 October 2009, which is being treated as a petition under 37 CFR 1.182. Applicant is requesting to change the searching authority for the above-identified application to the Korean Intellectual Property Office (ISA/KIPO). The $400 petition fee has been submitted.

On 03 October 2009, applicant filed international application PCT/US2009/059462. In Box No. VII-1 International Searching Authority, applicant indicated the United States (ISA/US) as the International Searching Authority.

The records of the ISA/US show that processing of the international search report has not begun. Since the ISA/US has not begun working on the establishment of the International Search Report as of receipt of the petition, applicant's petition under 37CFR 1.182 is GRANTED.

The "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) mailed 09 December 2009 is hereby VACATED. The $2080 search fee for the ISA/US and $240 late fee will be refunded to applicant's credit card.

This application is being forwarded to the United States Receiving Office (RO/US) for processing in accordance with this decision, including preparing the search copy of this application and forwarding the search copy of this application to the Korean Intellectual Property Office in its capacity as the International Searching Authority together with a copy of this decision.

Anthony Smith
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2 6 FEB 2010

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HULSEYIP INTELLECTUAL PROPERTY LAWYERS, P.C.
919 CONGRESS AVENUE
SUITE 919
AUSTIN TX TEXAS 78701

In re Application of:
SOLEXEL, INC.
PCT No.: PCT/US2009/064484
International Filing Date: 13 November 2009
Priority Date: 13 November 2008
Attorney Docket No.: SOLT017WO
For: METHODS AND SYSTEMS FOR MANUFACTURING THIN-FILM SOLAR CELLS

DECISION ON PETITION
(37 CFR 1.181)

This decision is issued in response to applicant's "Request To Withdraw And Response To Invitation To Pay Prescribed Fees Together With Late Payment Fee" filed 25 February 2010, considered herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 13 November 2009, applicant filed materials to initiate international application PCT/US2009/064484 using the EFS-Web electronic filing system. The application was not accompanied by payment of the required fees.

On 09 May 2008, the United States Receiving Office (RO/US) mailed a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) indicating that $3,727 in fees were required. As set forth in the attached annex, such amount included the $312 as the fee for inclusion of 24 additional sheets in excess of 30.

On 31 December 2009, applicant filed a "Response To Notification Concerning Prescribed Fees" accompanied by payment of $3,727 in fees.

On 25 January 2010, the RO/US mailed an "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) informing applicant that $117 in outstanding fees, plus $58.50 in late payment fees, were required.

On 25 February 2010, applicants filed the "Request To Withdraw And Response To Invitation To Pay Prescribed Fees Together With Late Payment Fee" considered as a petition herein. The petition asserts that all required fees were timely paid herein on 31 December 2009 and that the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" mailed 25 January 2010 should therefore be withdrawn.

DISCUSSION

The annex to the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) mailed 25 January 2010 indicates that the total fees due herein are $3,727 (including $312 as the fee for inclusion of 24 additional sheets in excess of 30). This is consistent with the previously mailed Form PCT/RO/102. The annex to the Form PCT/RO/133 also indicates that applicant has paid only $3,610[1] of the $3,727 in required fees, leaving the unpaid balance of $117 set forth on the Form PCT/RO/133. However, a review of the application file confirms that applicant submitted $3,727 in fees on 31 December 2009, not $3,610.

Upon review, it is confirmed that applicant's 31 December 2009 submission included a payment of $3,727, the total amount of required fees set forth in the Form PCT/RO/102 and the PCT/RO/133. However, it is also concluded that an additional $117 in fees beyond the $3,727 total set forth in the Form PCT/RO/102 and the PCT/RO/133 is required herein. Specifically, as discussed above, the PCT/RO/102 and PCT/RO/133 mailed herein both based their calculation of outstanding fees on the inclusion of 24 additional sheets in excess of 30. However, the application as filed includes 33 additional sheets in excess of 30. The fee for each additional sheet is $13. Accordingly, the total fees required herein are $$3,844, that is, $117 more than the $3,727 amount set forth in the PCT/RO/102 and the PCT/RO/133.[2]

Based on the authorization to charge Deposit Account No. 50-3835 contained in the present petition, Deposit Account No. 50-3835 will be charged the $117 needed to complete the fee for additional sheets over thirty.

Under the circumstances present here, where the notices issued by the RO/US incorrectly calculated the amount of fees required and the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) mailed 25 January 2010 also incorrectly identified the amount of fees previously submitted by applicants, the PCT/RO/133 is appropriately withdrawn, as requested by applicant in the present petition. Applicant will therefore not be charged the $58.50 late fee required by such Invitation.

CONCLUSION

Applicant's petition requesting withdrawal of the "Invitation To Pay Prescribed Fees Together With Late Payment Fee" (Form PCT/RO/133) mailed 25 January 2010 is **GRANTED** to the extent discussed above.

Deposit Account No. 50-3835 will be charged the additional $117 required to complete the fee for inclusion in the application of 33 additional sheets over 30.

---

[1] Specifically, the annex indicates that applicant has paid $240 as the transmittal fee, $2,080 as the search fee, and $1,290 of the international filing fee.

[2] $117 representing $13 for each of the 9 additional excess sheets not considered in the previous fee calculations.

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

17 MAR 2010

Commissioner for Patents
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Paul D. Greeley
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
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Stamford, CT 06901-2682

In re Application of :
Lumen Devices LLC et al. :
PCT No.: PCT/US2009/065914 :
Int. Filing Date: 25 November 2009 :
Priority Date: 25 November 2008 : DECISION
Atty. Docket No.: 0005150WOU/3241 :
For: Devices, Systems and Methods for :
the Treatment of Sleep Apnea :
:

This is in response to "Request for Refund" filed 05 January 2010

BACKGROUND

On 25 November 2009, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2009/065914. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2009/065923.

On 07 December 2009, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102), Invitation to Correct Defects in the International Application (RO/106) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2009/065914.

On 10 December 2009, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2009/065923.

On 05 January 2010, applicant filed the present petition requesting withdrawal of international application PCT/US2009/065914 and refund of fees.

DISCUSSION

The petition states that after clicking on the "submit" button, and during the payment of the filing fee, the system froze and applicant was unable to obtain the filing receipt, as well as view the application in PAIR. Applicant contacted EFS Web Technical center and was instructed to delete the temporary files and cookies, and then to refile the application. Furthermore, petitioner is requesting that the RO/US withdraw the present application and refund the filing fees. Withdrawal of an application is permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants."

Furthermore, please be advised that under PCT Rule 15.6, applicant is not entitled to a refund of the international fee, the transmittal fee is not refundable pursuant to 37 CFR 1.446(d) and the search fee is only refundable prior to transmittal to the International Searching Authority. In the present case, the search copy was transmitted to the International Searching Authority (ISA/US) on 07 December 2009. A further review of the present case indicates that there's no record of Power of Attorney signed by all applicants. Therefore, pursuant to PCT Rule 90bis.5 (a), withdrawal of the international application and request for refund cannot be approved at the present time.

CONCLUSION

For the reasons above, the Request for Withdrawal of Duplicate Serial Number and 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. Extension of time are available under 37 CFR 1.136 (a).

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.

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Richard Cole
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Office of PCT Legal Administration

14 JUL 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paul D. Greeley
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In re Application of :
Lumen Devices LLC et al. :
PCT No.: PCT/US2009/065914 :
Int. Filing Date: 25 November 2009 :
Priority Date: 25 November 2008 : DECISION
Atty. Docket No.: 0005150WOU/3241 :
For: Devices, Systems and Methods for :
the Treatment of Sleep Apnea :
:

This is in response to "Renewed Petition for Withdrawal of Application and Refund of Application Fees under 37 CFR 1.446(a)" filed 17 May 2010.

BACKGROUND

On 25 November 2009, applicant filed international application papers with the United States Receiving Office (RO/US) via the EFS-Web electronic filing system of the USPTO ("EFS-Web"). The submission was assigned international application number PCT/US2009/065914. On the same day, applicant filed a duplicate set of international application papers with the RO/US via EFS-Web. This second submission was assigned international application number PCT/US2009/065923.

On 07 December 2009, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102), Invitation to Correct Defects in the International Application (RO/106) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2009/065914.

On 10 December 2009, the United States Receiving Office (RO/US) mailed a Notification of the International Application Number and of the International Filing Date (RO/105), Notification Concerning Payment of Prescribed Fees (RO/102) and Notification of Receipt of Search Copy (ISA/202) for international application PCT/US2009/065923.

On 05 January 2010, applicant filed a petition requesting withdrawal of international application PCT/US2009/065914 and refund of fees.

On 17 May 2010, applicant filed the present "Renewed Petition for Withdrawal of Application and Refund of Application Fees.

DISCUSSION

Petitioner requests that the Commissioner grant the renewed Petition to request to withdraw the present application and refund the application fees under 37 C.F.R. 1.446(a). Withdrawal of an application is permissible, provided the requirements of PCT Rule 90bis are satisfied. PCT Rule 90bis.5 (a) states, "Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants."

Furthermore, please be advised that under PCT Rule 15.6, applicant is not entitled to a refund of the international fee, the transmittal fee is not refundable pursuant to 37 CFR 1.446(d) and the search fee is only refundable prior to transmittal to the International Searching Authority. In the present case, the withdrawal is ineffective because the Power of Attorney from the Manager of Lumen Devices LLC is not accepted because a manager does not have apparent authority to sign on behalf of the company. The signature must be from a recognized officer of the company or the person signing must state that he has authority to sign on behalf of the applicant. Such a statement could be: "The undersigned (whose title is supplied below) is empowered to sign the power of attorney on behalf of the applicant." See MPEP 1820. A further review of the present case indicates that the search copy was transmitted to the International Searching Authority (ISA/US) on 07 December 2009 and the International Search Report and Written Opinion have been issued. Therefore, pursuant to PCT Rule 90bis.5 (a), withdrawal of the international application and request for refund cannot be approved at the present time.

CONCLUSION

For the reasons above, the Renewed Petition for Withdrawal of Application and Refund of Application Fees under 37 CFR 1.446(a) 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. Extension of time are available under 37 CFR 1.136 (a).

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.

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Richard Cole
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- 4 MAR 2010

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Ari M. Bai
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700 W. 47th Street, Suite 1000
Kansas City, Missouri 64112

In re Application of
DEVASAHAYAM, Nallatha, et al
PCT No.: PCT/US2009/065956
Int. Filing Date: 25 November 2009
Priority Date: 29 November 2008
Atty. Docket No.: E-250-2008/0
For: Quantitative Oxygen Imaging Systems and Methods Using Echo-Based Single Point Imaging

DECISION ON PETITION

This is in response to the "Petition to Request a Change in Searching Authority" filed 09 December 2009, which is being treated under 37CFR1.182. The requisite petition fee has been received.

BACKGROUND

On 25 November 2009, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned International Application No. PCT/US2009/065956.

On 04 December 2009, Notification Concerning Payment of Prescribed Fees (RO/102), Notification of The International Application Number and of the International Filing Date (RO/105), Invitation to Correct Defects in the International Application (RO/106) and Notification Regarding Certain Corrections made Ex Officio (RO/146) were mailed to the applicant.

On 09 December 2009, applicant filed the Petition to Request Change in Searching Authority and included authorization to charge the requisite petition fee.

DISCUSSION

The petition requests that the International Searching Authority (ISA), be changed from US to KR. As the PCT and PCT regulations do not specifically provide for a change in the ISA after the international application has been filed such a request may only be considered upon petition under 37 CFR 1.182. Such a petition will only be granted if the Search Copy has not yet been forwarded to the International Searching Authority. In the present case because the search copy has been forwarded and the Search Report and Written Opinion has been issued by the International Searching Authority (ISA/US); the change will not be permitted.

CONCLUSION

For the reasons above, the petition under 37CFR.1.182 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.

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02 MAR 2010

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In re Application of:
DISCOVERY TECHNOLOGY INTERNATIONAL
PCT No.: PCT/US2009/068217
Int. Filing Date: 16 December 2009
Priority Date: 19 December 2008
Attorney's Docket No.: 2210998-WO0
For: PIEZOELECTRIC MOTOR

DECISION REGARDING SEARCHING AUTHORITY

On 16 December 2009, applicant filed international application PCT/US2009/068217, which claimed priority from an earlier US provisional application which was filed on 19 December 2008.

In Box No. VII-1 of the Request (Form PCT/RO/101), applicant identified the United States Patent Office (ISA/US) as the International Searching Authority. Additionally, applicant indicated on the Fee Calculation Sheet that the search fee was $2080, the amount the ISA/US required for the U.S. to be the International Searching Authority.

On 21 December 2009, applicant filed the present request herein. The submission, "REQUEST FOR CHANGE OF INTERNATIONAL SEARCH AUTHORITY" requests that the international searching authority be changed to the Korean Intellectual Property Office (KIPO). Applicant is advised that a request to change the ISA requires submission of a petition under 37 CFR 1.182, including the required $400 petition fee.

The present request was not submitted as a petition under 37 CFR 1.182, with the required petition fee. Further, the records of the United States Receiving Office (RO/US) show that the International Search Report was issued on 24 February 2010. Accordingly, the request is appropriately DISMISSED as moot.

The $729.00 paid on 21 December 2009 for payment of an international search with the KIPO selected as the international searching authority will be refunded to applicant.

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.

Derek A. Putonen
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24 MAY 2010

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2026 CARIBOU DRIVE
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In re Application of	:	
PURE ENERGY, INC.	:	
PCT No.: PCT/US2009/68339	:	DECISION
Int. Filing Date: 16 December 2009	:	
Priority Date: 16 December 2008	:	
Attorney Docket No.: WILD20WOU1	:	
For: APPARATUS AND METHODS FOR	:	
RECEIVING POWER WIRE-FREE WITH IN-LINE	:	
CONTACTS FROM A POWER PAD	:	

This decision is in response to applicant's submission filed 09 April 2010, which has properly been treated as a petition under 37 CFR 1.182 for the reasons set forth below. The petition fee has been charged to Deposit Account 501491.

BACKGROUND

On 16 December 2009, 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/US09/68339.

On 21 December 2009, the United States Receiving Office (RO/US) mailed a NOTIFICATION CONCERNING PAYMENT OF PRESCRIBED FEES (Form PCT/RO/102) indicating that a balance of $3,365 was due.

On 23 December 2009, 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 16 December 2009.

On 01 February 2010, the RO/US mailed an INVITATION TO PAY PRESCRIBED FEES TOGETHER WITH LATE PAYMENT FEE (Form PCT/RO/133) indicating that a balance of $3,365 was due in addition to a late payment fee of $592. The INVITATION set a

one-month time limit for response.

On 11 February 2010, applicant submitted electronically via EFS-Web a payment of $3,365.

On 17 March 2010, the RO/US mailed a NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN (Form PCT/RO/117) 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 01 February 2010. Specifically, it was noted that the amount paid was not sufficient to cover the transmittal fee, the international filing fee, the search fee and the late payment fee.

On 09 April 2010, applicant filed the instant petition.

DISCUSSION

The submission filed 11 February 2010 failed to include specific authorization to charge the late payment fee of $592. The petition urges that the submission filed 01 February 2010 included "authorization to charge all fees, including those required under Rule 16". However, authorization to charge fees under PCT Rule 16 is not authorization to charge fees under PCT Rule 16bis. Accordingly, the money paid 11 February 2010 has been re-applied to charge the late payment fee under PCT Rule 16bis first. In so doing, a balance of $592 remains to be paid on the search fee. The submission filed 11 February 2010 includes a specific authorization to charge any additional fees required under PCT Rule 16 to Deposit Account 501491. Accordingly, the NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN mailed 17 March 2010 is hereby VACATED.

CONCLUSION

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

The NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN mailed 17 March 2010 is VACATED.

The application is being forwarded to the RO/US for continued processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
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CC: International Bureau of WIPO
United States International Searching Authority

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In re Application of: NETFLIX, INC.	:	PETITION
PCT Application No.: PCT/US2009/069071	:	
International Filing Date: 21 December 2009	:	
Priority Date: 22 December 2008	:	UNDER
Attorney's Docket No.: NETF0012PCT	:	
For: ON-DEVICE MULTIPLEXING OF STREAMING MEDIA CONTENT	:	37 CFR 1.181

This decision is in response to applicants' "REQUEST TO CORRECT INTERNATIONAL FILING DATE" filed 02 April 2010, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 21 December 2009, applicants filed the instant international application with the Unites States Receiving Office (RO/US) and was accorded the international filing date of 21 December 2009.

On 01 March 2010, the United States International Searching Authority (ISA/US) issued Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) indicating thereon the international filing date of 22 December 2009.

On 02 April 2010, applicants filed the present petition requesting the ISA/US to update all records to reflect the correct international filing date.

DISCUSSION

All records with the ISA/US correctly reflect the instant international application having the international filing date of 21 December 2009. Consequently, the forms PCT/ISA/220,

PCT/ISA/210, and PCT/ISA/237 should have contained 21 December 2009 as the correct international filing date.

CONCLUSION

For the reasons given above, the applicants' petition under 37 CFR 1.181 is **GRANTED**.

Corrected Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) are attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Bryan Lin
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Office of PCT Legal Administration
Telephone: (571) 272-3285

ATTACHMENT: Corrected Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237)

UNITED STATES PATENT AND TRADEMARK OFFICE

27 APR 2010

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

Jesus Sanchelima
235 S.W. Le Jeune Road
Miami, Florida 33134

In re Application of:
HIDALGO VARGAS, Edgar
PCT No.: PCT/US2010/000110
International Filing Date: 15 January 2010
Priority Date: 19 January 2009
Attorney's Docket No.: 300014
For: COLLAPSIBLE CONTAINER

DECISION

This decision is issued in response to the facsimile communication filed 06 April 2010 treated herein as a petition under 37 CFR 1.181 to withdraw the "Invitation To Pay Prescribed Fees Together With Late Payment" (Form PCT/RO/133). No petition fee is required.

BACKGROUND

On 15 January 2010, applicant filed a Request (Form PCT/RO/101) and accompanying materials to initiate the present international application. The submission included a fee payment of $3,524.

On 28 January 2010, the United States Receiving Office (RO/US) mailed a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) indicating that $96 in fees were required.

On 03 February 2010, applicant submitted a communication with a purported attached Credit Card Authorization (Form PTO-2038).

On 11 March 2010, the RO/US mailed an "Invitation To Pay Prescribed Fees Together With Late Payment" (Form PCT/RO/133) requiring submission of $96 in fees, as well as a $240 late payment fee. The Invitation stated that payment was required within one month and that: "**Failure to pay** the total amount due within the time limit indicated above may result in the international application being considered withdrawn by the receiving Office."

On 06 April 2010, applicant filed the petition considered herein. The petition asserts that the required fees were submitted by facsimile 03 February 2010. The petition included a copy of the materials purportedly filed on 03 February 2010.

On 14 April 2010, applicant submitted the $240 late payment fee.

DISCUSSION

The application file contains the cover page purportedly filed by applicant on 03 February 2010, but the USPTO has no record of receiving payment of any fees or the Credit Card Authorization (Form PTO-2038) purportedly submitted on 03 February 2010.[1]

The present petition asserts that the fee payment was submitted by facsimile on 03 February 2010. Attached to the petition is a copy of the response dated 03 February 2010; the Credit Card Authorization (Form PTO-2038) submitted on 03 February 2010; and a fax confirmation page. It is noted that the 03 February 2010 response does not include a Certification of Transmission under 37 CFR 1.8. Assuming, *arguendo*, that the response contained a Certification of Transmission thereon, the 37 CFR 1.8(a)(2)(ii)(E) states that "no benefit will be given to a Certificate of Mailing or Transmission" with respect to "correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority." Therefore, the present petition cannot be used as a basis for determining the timeliness of applicant's fee payment, purportedly submitted on 03 February 2010.

It is noted that the filing date for applicant's fee payment is the date of receipt of such payment in the USPTO. As noted above, the earliest receipt date for the fee payment is 06 April 2010. Accordingly, withdrawal of the "Invitation To Pay Prescribed Fees Together With Late Payment" (Form RO/133) is not appropriate.

CONCLUSION

Applicant's present request to withdraw the "Invitation To Pay Prescribed Fees Together With Late Payment" (Form PCT/RO/133) is **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.

Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296

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[1] Upon receipt of the petition (which contained a copy of the materials purportedly filed previously, including a credit card authorization form), the USPTO charged applicant the previously required $96 in fees.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas E. Spath
Abelman, Frayne & Schwab
666 Third Avenue
New York, New York 100017-5621

In re Application of :
JORE, Matthew B. :
PCT No.: PCT/US2010/000112 : DECISION ON PETITION
Int. Filing Date: 15 January 2010 : UNDER 37 CFR 1.10
Priority Date: 16 January 2009 :
Attorney Docket No.: 210,708-PCT :
For: SEGMENTED STATOR FOR AN AXIAL FIELD DEVICE :

This decision is issued in response to applicant's "Petition under 37 CFR 1.10(c) to Correct Filing Date" filed 16 February 2010 to accord an international filing date of 15 January 2010 to the above-identified international application.

BACKGROUND

The United States Receiving Office accorded an international filing date of 18 January 2010 to the above-identified international application.

On 16 February 2010, applicant filed the present petition which included a copy of the Customer Receipt of the "Express Mail" mailing label #EB908957622US. 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 JAN 15, 2010.

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 15 January 2010. Specifically, the "Express Mail" label number ("#EB908957622US") appears on the postcard receipt submitted with the international application. The indication of the "Express Mail" label number appearing on the postcard receipt ties the "Express Mail" label and the postcard receipt together such that it is clear that the international application was deposited on 15 January 2010.

In addition, the USPS tracking data for this "Express Mail" envelope confirms that the USPS accepted the envelope on 15 January 2010.

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 15 January 2010. Accordingly, applicant's petition is accepted.

CONCLUSION

Applicant's petition requesting that the application papers be accorded an international filing date of 15 January 2010 is **GRANTED**.

The application is being returned to the United States Receiving Office for: (1) according an international filing date of 15 January 2010; (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 15 January 2010; 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

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 10/00112

15 JAN 2010
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)* 210,708-PCT

Box No. I TITLE OF INVENTION

SEGMENTED STATOR FOR AN AXIAL FIELD 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.)*
JORE, Matthew B.
34361 Innovation Drive
Ronan, MT 59864
US

Telephone No.

Facsimile No.

Applicant's registration No. with the Office

[ ] **E-mail authorization:** Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. (*See also the Notes to Boxes Nos. II and III.*)

E-mail address

State *(that is, country)* of nationality: US

State *(that is, country)* of residence: US

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)

[X] 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: [X] 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.)*
SPATH, Thomas E.
Abelman, Frayne & Schwab
666 Third Avenue
New York, NY 10017-5621
US

Telephone No.
1-212-949 9022

Facsimile No.
1-212-949 9190

Agent's registration No. with the Office
25,928

[ ] **E-mail authorization:** Marking this check-box authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, if the Office or Authority so wishes, advance copies of notifications in respect of this international application. (*See also the Notes to Boxes Nos. II and III.*)

E-mail address

[ ] **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

21 MAY 2010

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

MATTHEW L. MADSEN
MONSANTO TECHNOLOGY LLC
800 NORTH LINDBERGH BOULEVARD
ATTENTION: GAIL WUELLNER, MAIL ZONE E1NA
ST. LOUIS MO MISSOURI 63167

In re Application of:
MONSANTO TECHNOLOGY, LLC
PCT No.: PCT/US2010/20834
International Filing Date: 13 January 2010
Priority Date: 16 January 2009
Atty Docket No.: 38-21(56220)A-PCT
For: ISOLATED NOVEL NUCLEIC ACID AND PROTEIN MOLECULES FROM SOYBEANS ...

DECISION

This decision is issued in response to the "Request To Vacate Declaration Of Non-Establishment Of International Search Report" filed 15 April 2010. No petition fee is required.

BACKGROUND

On 13 January 2010, applicant filed a Request (Form PCT/RO/101) and related materials to initiate the present international application. Among the materials filed on 13 January 2010 was an electronic version of the sequence listing contained in the application. As set forth in Box No. IX (g) of the Request, due to the large size of the sequence listing file, the sequence listing was filed separately on a physical data carrier (i.e., CD) on the same date that the international application was filed. The electronic sequence listing provided by applicant on 13 January 2010 was subsequently found to be in unacceptable form.

On 25 January 2010, the United States International Searching Authority (ISA/US) mailed an "Invitation To Furnish Nucleotide And/Or Amino Acid Sequence Listing And To Pay, Where Applicable, Late Furnishing Fee" (Form PCT/ISA/225) indicating that a paper and electronic sequence listing were required.

On 05 February 2010, applicant filed a response to the Form PCT/ISA/225 stating that, as indicated on the Request, a copy of the sequence listing on a CD had been filed on the same date as the international application.

On 30 March 2010, 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/220), 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 a

meaningful search could not be carried out based on applicant's failure to provide an acceptable electronic version of the sequence listing.

On 15 April 2010, applicant filed the "Request To Vacate Declaration Of Non-Establishment Of International Search Report" considered herein, accompanied by a revised version of the electronic sequence listing (upon review, this electronic sequence listing was found to be in acceptable form). The petition requests withdrawal of the Declaration Of Non-Establishment Of International Search Report (Form PCT/ISA/203) and the issuance of an appropriate International Search Report and Written Opinion (Form PCT/ISA/237) based on the corrected sequence listing materials filed with the petition.

DISCUSSION

The materials filed by applicant on 05 February 2010, including the return postcard itemizing the CD containing the sequence listing and bearing a USPTO receipt stamp dated 13 January 2010, provide confirmation that applicant submitted the electronic sequence listing on the international filing date. This electronic sequence listing was subsequently found to be in an unacceptable form; however, 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 25 January 2010 did not specifically refer to the sequence listing materials filed on 13 January 2010 or identify any defects therein.

Based on applicant's statements in the present petition and a review of the application file, it is concluded that applicant was not provided with an indication that the electronic sequence listing materials filed on 13 January 2010 were defective prior to the mailing of the Declaration Of Non-Establishment Of International Search Report (Form PCT/ISA/203) and related forms on 30 March 2010. Under these circumstances, it is appropriate to vacate the forms issued on 30 March 2010, including the Declaration Of Non-Establishment Of International Search Report (Form PCT/ISA/203), and for a revised International Search Report and Written Opinion (ISR/WO) to be generated based on the corrected electronic sequence listing materials submitted by applicant with the present petition.

CONCLUSION

Applicant's petition 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/220), "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 30 March 2010 are hereby **VACATED**.

This application is being referred to the ISA/US for further processing in accordance with this decision, including the preparation of a revised International Search Report and Written Opinion of the International Searching Authority (Form PCT/ISA/237).

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

- 2 MAR 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald Kamis
Arent Fox LLP
1050 Connecticut Ave. NW
Suite 400
Washington, DC 20036-5339

In re Application of
Reed ImmunoDiagnostics LLC
PCT No.: PCT/US2010/021014
Int. Filing Date: 14 January 2010
Priority Date: 16 January 2009
Atty. Docket No.: 031093.00002
For: Detection Devices and Methods

PETITION

This is in response to the communication filed 21 January 2010, which is being treated under 37CFR1.182. The requisite petition fee has been received.

BACKGROUND

On 14 January 2010, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned International Application No. PCT/US2010/021014.

On 21 January 2010, Notification Concerning Payment of Prescribed Fees (RO/102), Notification of The International Application Number and of the International Filing Date (RO/105), Invitation to Correct Defects in the International Application (RO/106) and Notification Regarding Certain Corrections made Ex Officio (RO/146) were mailed to the applicant.

On 21 January 2009, applicant filed the present Request for Change in Searching Authority and included authorization to charge the requisite petition fee.

DISCUSSION

The petition requests that the International Searching Authority (ISA), be changed from US to EP. As the PCT and PCT regulations do not specifically provide for a change in the ISA after the international application has been filed such a request may only be considered upon petition under 37 CFR 1.182. Such a petition will only be granted if the Search Copy has not yet been forwarded to the International Searching Authority. In the present case because the search copy has been docketed by the International Searching Authority (ISA/US); the change will not be permitted. The petition fee of $400.00 has been charged to Deposit Account No. 01-2300

CONCLUSION

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

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.

Stacy Duncan
Paralegal Specialist
Office of PCT Legal Administration
Tel: (571) 272-4989

Richard Cole
Sr. PCT Legal Examiner
Office of PCT Legal Administration

12 APR 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

MICHAEL P. MAZZA, LLC
686 CRESCENT BOULEVARD
GLEN ELLYN IL 60137

In re Application of	:	
RESTECHE LLC	:	DECISION
PCT No.: PCT/US2010/023979	:	
Int. Filing Date: 12 February 2010	:	
Priority Date: 06 February 2009	:	
Attorney's Docket No.: 10091CIPPCT	:	
For: KEYBOARD WITH INTEGRATED	:	
ELECTROMAGNETIC RADIATION THERAPY	:	

This decision is in response to applicant's "Petition Pursuant to 37 CFR 1.181 Seeking Corrected Form PCT/RO/105" filed on 23 March 2010 and applicant's submission filed 05 April 2010 which includes, *inter alia*, a replacement sheet 3 of the Request.

BACKGROUND

On 25 February 2010, 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 25 October 2007 and no priority date.

On 25 February 2010, 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 priority document did not fall within the period of 12 months preceding the international filing date and that the priority claim was missing the indication of the country.

On 23 March 2010, applicant filed the petition under 37 CFR 1.181.

On 05 April 2010, applicant filed, *inter alia*, a replacement page 3 of the Request.

DISCUSSION

Date of Priority Claim

The Request filed 12 February 2010 claims priority to application number 12/366,947 filed 06 February 2009. As noted by applicant in the petition under 37 CFR 1.181, 06 February 2009 was a Saturday. As also noted by applicant in the petition, the United States Patent and Trademark Office was closed 08 February 2010 through 11 February 2010 due to adverse weather conditions. Pursuant to PCT Rule 80.5, the priority claim is timely. Accordingly, the portion of the INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY mailed 25 February 2010 indicating that the filing date indicated for the priority document did not fall within the period of 12 months preceding the international filing date is hereby **VACATED**.

Country of Priority Claim

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. The request to correct the priority claim to application number 12/366,947 filed 06 February 2009 to indicate that it is a US application was filed within this time limit. The priority claim has been corrected.

CONCLUSION

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

The portion of the INVITATION TO CORRECT PRIORITY CLAIM AND/OR NOTIFICATION OF POSSIBILITY TO REQUEST RESTORATION OF THE RIGHT OF PRIORITY mailed 25 February 2010 indicating that the filing date indicated for the priority document did not fall within the period of 12 months preceding the international filing date is hereby **VACATED**.

For the reasons set forth above, applicant's request under PCT Rule 26bis.1 is **GRANTED**.

This application is being forwarded to the RO/US for further processing in accordance with this decision including preparation and mailing of a corrected Form PCT/RO/105 indicating the priority date.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

CC: International Bureau of WIPO

UNITED STATES PATENT AND TRADEMARK OFFICE

11 MAY 2010

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

William J. Barber
WARE, FRESSOLA, VANDERSLUYS & ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468

In re Application of :
CIDRA CORPORATE SERVICES INC. :
PCT No.: PCT/US2010/024255 :
Int. Filing Date: 16 February 2010 :
Priority Date: 13 February 2009 :
Docket No.: 712-2-316-1 :
For: USE OF GAS VOID FRACTION MEASUREMENT IN THE CLOSED LOOP CONTROL OF A FERMENTATION PROCESS :

DECISION ON PETITION UNDER 37 CFR 1.181

Applicant's "Petition Rule 1.181 to Reinstate Application Filing" filed with the United States Receiving Office (RO/US) on 10 March 2010 is **GRANTED** as follows:

On 16 February 2010, applicant filed the above-captioned international application using the USPTO EFS-We system at 13:08:13. Applicant resubmitted only the specification, claims and abstract at 16:58:54 on the same date using the above-captioned PCT number because he could not verify that the application was properly received by the RO/US and could not contact anyone at the USPTO due to a snowstorm.

The 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) on 24 February 2010, listing a date of receipt of the purported international application of 16 February 2010.

On 10 March 2010, applicant filed the subject petition requesting that the first PCT application be reinstated.

A review of the file shows that both submissions on 16 February 2010 were received by the RO/US. It appears that the second papers filed at 16:58:54 were erroneously treated as a new international application and forwarded to the International Bureau. This was a mistake. Applicant complied with all Article 11 requirements in the filing on 16 February 2010.

Accordingly, the Form PCT/RO/151 mailed 24 February 2010 is **VACATED**.

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 on 15 March 2010.

The above-captioned application will be processed by the RO/US. A copy of this decision will be forwarded 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

18 JUN 2010

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

James W. Peterson
JONES DAY
222 East 41st Street
New York, NY 10017-6702

In re Application of: OPHEIM, JOAR	:	PETITION
PCT Application No.: PCT/US2010/024999	:	
International Filing Date: 23 February 2010	:	
Priority Date: 25 February 2009	:	
Attorney's Docket No.: 12098-18-228	:	UNDER
For: THERAPEUTIC COMPOSITION COMPRISING	:	
OMEGA-3 POLYUNSATURATED FATTY ACID OR	:	
DERIVATIVE THEREOF, RESVERATROL AND GREEN	:	
TEA	:	37 CFR 1.181

This decision is in response to applicants' "PETITION TO WITHDRAW AND REISSUE" filed 19 April 2010, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 23 March 2010, the United States International Searching Authority (ISA/US) issued Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) indicating thereon "LAURA A. CORUZZI JONES DAY 222 EAST 41ST STREETNEW YORK, NY 10017-6702" as the applicant.

On 19 April 2010, applicants filed the present petition requesting the ISA/US to withdraw the forms PCT/ISA/220, 210 & 237 and reissue the same forms with the correct name of the applicant.

DISCUSSION

All records with the ISA/US correctly reflect "OPHEIM, JOAR" as the applicant for the instant international application. Consequently, the forms PCT/ISA/220, PCT/ISA/210, and PCT/ISA/237 should have contained "OPHEIM, JOAR" as the correct name of the applicant.

CONCLUSION

For the reasons given above, the applicants' petition under 37 CFR 1.181 is **GRANTED**.

Corrected Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237) are attached to this decision. A copy of this decision is being forwarded to the International Bureau (IB).

Boris Milef
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 Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (form PCT/ISA/220), International Search Report (form PCT/ISA/210), and Written Opinion of the International Searching Authority (form PCT/ISA/237)

CORRECTED

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
JAMES W. PETERSON
JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

	Date of mailing *(day/month/year)* 18 JUN 2010
Applicant's or agent's file reference 12098-18-228	**FOR FURTHER ACTION** See paragraphs 1 and 4 below
International application No. PCT/US 10/24999	International filing date *(day/month/year)* 23 February 2010 (23.02.2010)
Applicant OPHEIM, JOAR	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

   Filing of amendments and statement under Article 19:
   The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

   When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

   Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes 1211 Geneva 20, Switzerland, Facsimile No.: +41 22 338 8270

   For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

   ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

   ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

   Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90*bis*.1 and 90*bis*.3, respectively, before the completion of the technical preparations for international publication.

   The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

   Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

   In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

   See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	Authorized officer: Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/220 (January 2004) *(See notes on accompanying sheet)*

CORRECTED

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 12098-18-228	**FOR FURTHER ACTION**	see Form PCT/ISA/220 as well as, where applicable, item 5 below.
International application No. PCT/US 10/24999	International filing date *(day/month/year)* 23 February 2010 (23.02.2010)	(Earliest) Priority Date *(day/month/year)* 25 February 2009 (25.02.2009)
Applicant OPHEIM, JOAR		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. **Basis of the report**

   a. With regard to the **language**, the international search was carried out on the basis of:

   ☒ the international application in the language in which it was filed.

   ☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

   b. ☐ This international search report has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43.6*bis*(a)).

   c. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (see Box No. II).

3. ☐ **Unity of invention is lacking** (see Box No. III).

4. With regard to the **title**,

   ☒ the text is approved as submitted by the applicant.

   ☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

   ☒ the text is approved as submitted by the applicant.

   ☐ the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

   a. the figure of the **drawings** to be published with the abstract is Figure No. _____

   ☐ as suggested by the applicant.

   ☐ as selected by this Authority, because the applicant failed to suggest a figure.

   ☐ as selected by this Authority, because this figure better characterizes the invention.

   b. ☒ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 10/24999

A. CLASSIFICATION OF SUBJECT MATTER
IPC(8) - A61K 35/60 (2010.01)
USPC - 424/523
According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC(8): A61K 35/60 (2010.01)
USPC - 424/523

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched
USPC - 424/520; 424/523; 424/725; 424/729; 424/766

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
USPTO WEST (PGPB, USPT, USOC, EPAB, JPAB); Google
Omega-3 polyunsaturated fatty acid, omega-3 fatty acid, resveratrol, green tea, EPA, DHA, aging, antiaging and age related

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X --- Y	US 2008/0262081 A1 (RAEDERSTORFF, et al.) 23 October 2008 (23.10.2008), especially, para [0001], [0006], [0011], [0031]-[0034], [0038]	1, 2, 7, 8 --- 3-6, 9-12
Y	US 2008/0268042 A1 (FEUERSTEIN, et al.) 30 October 2008 (30.10.2008), especially, para [0033], [0034], [0075]	3-6, 9-12

☐ Further documents are listed in the continuation of Box C. ☐

* Special categories of cited documents:
"A" document defining the general state of the art which is not considered to be of particular relevance
"E" earlier application or patent but published on or after the international filing date
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
"O" document referring to an oral disclosure, use, exhibition or other means
"P" document published prior to the international filing date but later than the priority date claimed
"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
16 March 2010 (16.03.2010)	18 JUN 2010
Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US, Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	Authorized officer: Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/210 (second sheet) (July 2009)

CORRECTED

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To: JAMES W. PETERSON
JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing *(day/month/year)*	18 JUN 2010

Applicant's or agent's file reference	FOR FURTHER ACTION
12098-18-228	See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US 10/24999	23 February 2010 (23.02.2010)	25 February 2009 (25.02.2009)

International Patent Classification (IPC) or both national classification and IPC
IPC(8) - A61K 35/60 (2010.01)
USPC - 424/523

Applicant OPHEIM, JOAR

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US	Date of completion of this opinion	Authorized officer:
Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	16 March 2010 (16.03.2010)	Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/237 (cover sheet) (July 2009)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 10/24999

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

   ☒ the international application in the language in which it was filed.

   ☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of a sequence listing filed or furnished:

   a. (means)

      ☐ on paper

      ☐ in electronic form

   b. (time)

      ☐ in the international application as filed

      ☐ together with the international application in electronic form

      ☐ subsequently to this Authority for the purposes of search

4. ☐ In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 10/24999

Box No. V **Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	3-6, 9-12	YES
	Claims	1, 2, 7, 8	NO
Inventive step (IS)	Claims	NONE	YES
	Claims	1-12	NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims	NONE	NO

2. Citations and explanations:

Claims 1, 2, 7 and 8 lack novelty under PCT Article 33(2) as being anticipated by US 2008/0262081 A1 to Raederstorff, et al. (hereinafter 'Raederstorff').

Regarding claims 1 and 2, Raederstorff discloses a therapeutic composition (para [0001], 'nutraceutical compositions') comprising: (1) at least on omega-3 polyunsaturated fatty acid, more specifically EPA, DHA, or mixtures thereof (para [0001], 'at least one additional component selected from ... polyunsaturated fatty acids; para [0011], defining "polyunsaturated fatty acids" to include "omega-3 polyunsaturated fatty acid such as eicosapentaenoic acid [EPA] and docosahexaenoic acid [DHA]"); (2) resveratrol (para [0001], "nutraceutical compositions comprising as active ingredients, resveratrol"); and (3) green tea (para [0001], "at least one additional component selected from epigallocatechin gallate [EGCG], with para [0006], defining EGCG to be "the major catechin found in green tea"); wherein each component is present in an amount, individually or in combination, effective for a therapeutic, preventative or nutritional activity in a subject in need thereof (para [0031], [0032] and [0034], disclosing resveratrol, EGCG, and polyunsaturated fatty acids [PUFA] in sufficiently effective concentrations, with para [0038], disclosing wherein the ingredients of the composition provide "synergistic effects in preventing age-related diseases").

Regarding claims 7 and 8; Raederstorff discloses a method for supporting antiaging in a subject (para [0038], disclosing wherein the ingredients of the composition provide "synergistic effects in preventing age-related diseases") comprising periodically administering to the subject in an effective amount of a composition (para [0001], "nutraceutical compositions") comprising: (1) at least on omega-3 polyunsaturated fatty acid, more specifically EPA, DHA, or mixtures thereof (para [0001], "at least one additional component selected from... polyunsaturated fatty acids, with para [0011], defining "polyunsaturated fatty acids" to include "omega-3 polyunsaturated fatty acid such as eicosapentaenoic acid [EPA] and docosahexaenoic acid [DHA]"); (2) resveratrol (para [0001], "nutraceutical compositions comprising as active ingredients, resveratrol"); and (3) green tea (para [0001], "at least one additional component selected from EGCG, with para [0006], defining EGCG to be "the major catechin found in green tea"); wherein each component is administered in an amount, individually or in combination, effective for a therapeutic, preventative or nutritional activity in a subject in need thereof (para [0031], [0032] and [0034], disclosing resveratrol, EGCG, and polyunsaturated fatty acids [PUFA] in sufficiently effective concentrations, with para [0038], disclosing wherein the ingredients of the composition provide "synergistic effects in preventing age-related diseases").

Claims 3-6 and 9-12 lack an inventive step under PCT Article 33(3) as being obvious over Raederstorff in view of US 2008/0268042 A1 to Feuerstein, et al. (hereinafter 'Feuerstein').

Regarding claims 3 and 9; claims 2 and 8 are anticipated as above, but Raederstorff fails to expressly teach wherein the omega-3 polyunsaturated fatty acid component is a mixture comprising about 35 wt.% triglycerides of EPA and about 25 wt.% triglycerides of DHA. However, Raederstorff does teach mixtures of 'omega-3 polyunsaturated fatty acid such as EPA and DHA' (para [0011]). Feuerstein also teaches 'highly purified omega-3 fatty acid formulations' which contain between 70% and 100% EPA and DHA (para [0034]), and Feuerstein further teaches formulations having an EPA:DHA weight ratio of between 3.5:1 and 6.99:1, and also teaches the use of EPA:DHA ratios as low as 1.4:1 to have been well-known to a person of ordinary skill in the art, at the time of the invention (para [0075]). It would have been obvious to a person of ordinary skill in the art to have optimized the omega-3 polyunsaturated fatty acid formulation by adjusting the triglyceride concentrations and EPA:DHA ratios such that the composition would comprise about 35 wt.% triglycerides of EPA and about 25 wt.% triglycerides of DHA. It would have been obvious to a person of ordinary skill in the art to have included the components taught in Feuerstein within the composition taught in Raederstorff, because Raederstorff expressly teaches the use of polyunsaturated fatty acids as part of a therapeutic composition, including mixtures of EPA and DHA, and Feuerstein adds to the specificity of the polyunsaturated fatty acid component by teaching omega-3 fatty acid formulations of varying concentrations and potency; such that the effectiveness and potency of the therapeutic composition can be optimized, thereby maximizing the marketability of the resulting product and treatment method.

--***-Please See Supplemental Box-***--

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 10/24999

Supplemental Box

In case **the space in any of the preceding boxes is not sufficient.**
Continuation of:
Box V.2. Citations and explanations:

Regarding claims 4-6 and 10-12, claims 2 and 8 are anticipated as above, but Raederstorff fails to teach the further claim limitation taught by Feuerstein, namely wherein the omega-3 polyunsaturated fatty acid component is a mixture comprising at least about 60 wt.% of a combination of EPA and DHA (para [0034], 'the content of EPA and DHA, taken together, is greater than 70%'), with a weight ratio of EPA:DHA of from about 1.4:1 to about 5:1 (para [0033], 'weight ratio of EPA:DHA is approximately 4.09:1'); and wherein the combination is at least about 60% in the triglyceride form of the fatty acids, more specifically 80% in the triglyceride form, more specifically 90% in the triglyceride form (para [0033], teaching omega-3 fatty acid formulations which are entirely in triglyceride form). Raederstorff and Feuerstein fail to expressly teach wherein the remaining balance of omega-3 fatty acids are at least about 80% mono and di-glycerides. However, the use of mono and di-glycerides as components in primarily triglyceride omega-3 fatty acid formulations was well-known to a person of ordinary skill in the art, at the time of the invention, because of the common chemical interconversion of glyceral fatty acids between triglyceride, diglyceride and monoglyceride forms, and routine experimentation would have shown the inclusion of mono and di-glyceride forms of omega-3 fatty acids to have been obvious to a person of ordinary skill in the art. It would have been obvious to a person of ordinary skill in the art to have included the components taught in Feuerstein within the composition taught in Raederstorff, because Raederstorff expressly teaches the use of polyunsaturated fatty acids as part of a therapeutic composition, including mixtures of EPA and DHA, and Feuerstein adds to the specificity of the polyunsaturated fatty acid component by teaching omega-3 fatty acid formulations of varying concentrations and potency, such that the effectiveness and potency of the therapeutic composition can be optimized, thereby maximizing the marketability of the resulting product and treatment method.

Claims 1-12 have industrial applicability as defined by PCT Article 33(4) because the subject matter can be made or used in industry

UNITED STATES PATENT AND TRADEMARK OFFICE

27 APR 2010

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4875 PEARL EAST CIRCLE
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BOULDER CO COLORADO 80301

In re Application of:	:	
ALPHAVAX, INC., et al.	:	DECISION
PCT No.: PCT/US2010/030414	:	
Receipt Date: 08 April 2010	:	
Priority Date: 08 April 2009	:	
Atty Docket No.: 41-09WO	:	
For: ALPHAVIRUS REPLICON PARTICLES EXPRESSING TRP2	:	

This decision is issued in response to the "Notice of Withdrawal" (Form PCT/IB/372) requesting withdrawal of the international application and the "Request For Refund" filed 20 April 2010. No petition fee is required.

BACKGROUND

On 08 April 2010, applicant filed materials to initiate the present international application via the EFS-Web electronic filing system. The submission included the authorization to charge Deposit Account No. 07-1969 for required fees, pursuant to which the Deposit Account was charged $3,935.

On 20 April 2010, 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) confirming that the record copy of the application was transmitted to the International Bureau (IB) on 20 April 2010 and a "Notification Concerning Payment Of Prescribed Fees" (Form PCT/RO/102) confirming that applicant had been charged the $3,935 in fees required herein.

On 20 April 2010, applicant filed the "Notice of Withdrawal" (Form PCT/IB/372) requesting withdrawal of the international application and the "Request For Refund" considered herein. The request for refund seeks a refund of all the fees paid.

DISCUSSION

1. Request For Withdrawal Of The International Application

The "Notice of Withdrawal" (Form PCT/IB/372) filed on 20 April 2010 requests withdrawal of the present international application pursuant to PCT Rule 90bis.1. The request

appears to have been executed by Donna Ferber, the agent who signed the PCT Request (Form PCT/RO/101) filed 08 April 2010; 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, Donna Ferber has not submitted power of attorneys from the six applicants of record appointing her as their agent herein. Accordingly, on the present record, Donna Ferber is not the "appointed agent" in the present application, and the request for withdrawal of the international application is therefore properly dismissed.

2. Request For Refund

The present application was filed on 08 April 2010, and it included all the requirements for an international application. The submission authorized a charge to Deposit Account No. 07-1969 for required fees, pursuant to which the Deposit Account was charged $3,935 for the following specific fees: $240 transmittal fee, $2,080 search fee, $1,105 international fee, and $510 supplemental fee for inclusion of 34 additional pages over 30.

The present "Request For Refund" seeks a refund of all the fees paid herein or, "[a]t a minimum," a refund of the search fee "in view of the submission of the request for withdrawal ... and [refund] request on the same day that the Search Copy appears to have been provided to the International Searching Authority."

As discussed below, a refund of the fees properly charged herein is not appropriate under the present circumstances. With respect to the international and search fees, PCT Rule 15.6 states that a refund of the international fee is only appropriate if the application is unacceptable under PCT Article 11(1), the application is withdrawn prior to the transmittal of the record copy to the International Bureau (IB), or the application is subject to national security prescriptions. Similarly, PCT Rule 16.2 states that a refund of the search fee is only applicable if the application is unacceptable under PCT Article 11(1), the application is withdrawn prior to the transmittal of the search copy to the International Searching Authority (ISA), or the application is subject to national security prescriptions. The present application satisfies the requirements of PCT Article 11(1), is not subject to national security prescriptions, and was not effectively withdrawn prior to the transmittal of the record copy to the IB and the search copy to the ISA on 20 April 2010.[1] Accordingly, a refund of the international or search fees is not appropriate under PCT Rules 15.6 and 16.2. Finally, the PCT does not include a provision for refund of the $240 transmittal fee.

CONCLUSION

The "Notice Of Withdrawal" requesting withdrawal of the international application and the "Request For Refund" are **DISMISSED** without prejudice.

Any request for reconsideration on the merits with respect to the "Request For Refund" must be submitted within **TWO (2) MONTHS** of the mail date of this decision. Any such

[1] As noted above, the "Notice Of Withdrawal" filed with the present refund request is not effective to withdraw the present application.

submission must include a showing that a refund of the fees paid herein is appropriate under the PCT and the applicable statutes and regulations.

With respect to the request to withdraw the international application, a revised "Notice Of Withdrawal" accompanied by acceptable power of attorneys executed by all the applicants herein must be submitted before the present request to withdraw the international application can be effective.

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Facsimile: (571) 273-0459